

# CDC Report

Friday, November 15, 2002

Oakland, California

**Legislative / Regulatory Report:** Michael Arnold distributed a summary of legislative activity and presented the following legislative review:

As a result of the November elections, Democrats continue to control state offices. The significance of the offices the Republicans picked up is that a 2/3 majority vote is required for budget approval. It will be more difficult for budget approval with the current legislative mix. Additionally, reapportionment has resulted in more polarized parties on both the left and right.

According to Liz Hill in the Legislative Analyst's office, there will probably be a \$21 billion deficit in 2003-04. If the economy does not rebound, the situation can get even worse. CDC will have to be very watchful to prevent cutbacks such as elimination of the non-emergency transportation budget for Medi-Cal.

- TAR for Medi-Cal. The Department of Health Services is in agreement with CDC that the TAR requirement for dialysis should be eliminated. Michael Arnold requested Board approval to move forward with legislation to this end. Sean Graham made a motion that the CDC Board sponsor a bill to remove the TAR requirement for dialysis services. The motion was seconded and carried unanimously.
- The LVN regulatory package is being reworked by the BVNPT and is almost ready to be submitted to the Office of Administrative Law. The deadline for submission is December 15. If adopted, LVNs will be able to initiate and discontinue dialysis via catheter pursuant to standardized procedures at dialysis facilities. If OAL does not accept the revision, CDC may be forced to sponsor legislation.

**Network Report:** Arlene Sukolsky reported as follows:

- Ballots are in the mail for the five vacancies on the Network #17 Board and are due back by December 16.
- Approval has been obtained for the Emergency Preparedness for Dialysis Facilities document. It will be mailed to all dialysis facilities in the U.S. in late January, 2003, and will also be available on the CMS web site.
- This past week, full-page ads have been in major newspaper for the new Nursing Home Compare CMS web page. The pattern of Nursing Home Compare is similar to Dialysis Compare and as a community we should be sensitive to what might be published in the future by CMS.
- The Quality Improvement Project for the dialysis facilities in the U.S. in 2003 will most likely focus on vascular access. CMS may be contracting with the Institute for Healthcare Improvement (IHI) to develop the project and provide training for Networks and facilities.
- A USRDS special study on renal patients who have experienced MI's will be released soon. Any comments regarding this report should be sent to USRDS, NOT to the Network!
- The Networks are working with facilities to deal with challenging patients. Documentation by all staff in these matters are critical elements in dealing with these problems.

**NRAA Report:** Cindy LaMunyon delivered a report on NRAA activities.

- The House did not pass the 2.4% increase for dialysis reimbursement for 2003-04. No provider received an increase this year.
- The October 25 *Federal Register* contained proposed changes for the Medicare+ Choice program, some of these apply to dialysis. When re-enrolling, ESRD patients will be allowed to

enroll in another plan, if their current plan has terminated. (They cannot change otherwise.) The effective date for these proposed changes will be 12-24-02. Michael Arnold suggested that the NRAA comment on the proposed changes including the availability of regular Medicare with access to supplementary insurance if no Medicare+ Choice plan is available.

- PacifiCare is discontinuing the co-payment for dialysis treatments.
- Texas Medicaid has decreased EPO reimbursement. This may be significant for California facilities in that occurrences in one state are often later reflected in others.

**Medicare Report:** Carol DiRaimondo, M.D. reported as follows:

A National Coverage Decision (NCD) has been issued for Levocarnitine. The NCD includes two evidence-based reasons for reimbursement. These are EPO resistance and intradialytic hypotension in combination with carnitine deficiency.

A carrier advisory committee (Medicare Part B - NHIC) has made some decisions that will affect dialysis. (a) They are looking at payment for hepatitis C testing (RNA and genome). There would be a once in a lifetime genome test reimbursed and twice annual RNA testing. (b) In physician practices, NHIC has a Local Medical Review Policy (LMRP) for EPO. They are taking criticism from other Part B carriers for being too liberal in their reimbursement (hematocrit of 30-36). Other areas are reimbursing at less than 30 hematocrit.

**Medi-Cal Report:** Sean Graham distributed a list of the Medi-Cal billing issues that CDC is working with DHS to resolve. With regard to the reimbursement for EPO, our position is to have Medi-Cal mirror Medicare practices in reimbursement and dosing. Michael Arnold will work with Amgen and Dr. Carol DiRaimondo to put thoughts together for clarification of the issues and then will move forward with the state.

**Membership Report:**

Sue Vogel delivered the membership report. Facility memberships for 2002 are 173; facilities not renewed are 3 (Kaiser, El Camino and St. Joseph's Orange). Associate memberships are 42 for Gambro, 42 for DaVita and 26 for FMC. 11 corporate memberships, Baxter has not renewed. 11 individual memberships, 0 not renewed. 15 physician memberships, 0 not renewed.

**Annual Conference and Meeting:** Sandra Wilson stated that this is the second Annual Northern California combination Board Meeting and Education Meeting. Sean Graham has agreed to chair the meeting for next year.

The Annual Meeting will be held on April 11 and 12, 2003, at the Palm Springs Marquis Hotel. The theme is "Zen and the Art of Dialysis." There will be two panels, one from the largest providers' management and the second, on vascular access. Sponsors for each talk are being pulled together at this time.

**Web Site:** Instead of sending e-mails with attachments, CDC is now sending email with relevant links to items and reports that are posted on the web site. The issue raised at the last Board meeting regarding having the date that the web site was last updated be current, has now been fixed.

**Other Business:**

1. Peter Crooks stated that the analysis of the Demonstration Project #1 is finalized and is at Tom Scully's office for approval and release.
2. Barry Straube made the following comments:

- Whenever the Conditions of Coverage are released, there will probably not be a conflict between them and the state regulations CDC is proposing for LVNs.
  - SNF Compare web site reflects a new federal trend that will lean toward more public reporting.
  - Dr. Straube encourages comments (especially those with FACTS and not opinion) regarding the Medicare + Choice proposed changes. He said the same would apply to the Conditions of Coverage whenever they are released.
  - PacifiCare has rolled back the co-payment for ESRD. CMS has been working behind the scene to convince health plans to limit co-payments.
  - The Program Memorandum for rolling hematocrit in EPO reimbursement has been reinstated. Dr. Straube will e-mail NHIC to encourage them to continue their “liberal” but good medical policy for EPO reimbursement in physicians’ offices.
  - CMS is soliciting participation in the second demonstration project. RFPs will be going out for a similar capitated project to the first demonstration.
  - An FMC abstract shows better survival for patients on Zemplar than on Calcijex. CMS will maintain its current program of reimbursing Zemplar but at the Calcijex rate.
  - The Florida FI rescinded its policy requiring oral vitamin D failure before starting IV therapy. Dr. Straube intervened to have this requirement removed.
  - Dr. Straube would like to be kept aware of issues such as the I versus B occupancy problem that dialysis facilities are facing in his Region. He will remain involved at the level possible.
  - There will be changes in the Composite Rate “bundle” in the next six months.
3. The issue of State Fire Marshall interpretation of I- versus B-occupancy for dialysis facilities remains problematic. In 2002, there were building code changes relative to fire protection. The State Fire Marshall has asked local agencies to follow state rules. Discussion of this issue has apparently been on the Fire Marshall agenda for 3 months but has not been discussed and the meetings are closed.

Michael Arnold will begin research on this issue and will report back to the board in January. Debra Punch, Rich Turner, Sean Graham and Mary Brattich all stated that their companies are currently having issues around the I versus B occupancy decision. Sean stated that he has received feedback from the Fire Marshall that dialysis patients are older and sicker than they originally thought and that patient to staff ratios are not as high as they believed.

Barry Straube stated that he is unaware of this issue. He believes that this is not a CMS issue but a DHS one. He will assist in looking into the problem.

4. The 2003 Board Meeting schedule was presented and approved. Details may be obtained from our web site at: <http://www.caldialysis.org/EVENTS.htm>

## **The next Open CDC Board Meeting will be held in Los Angeles on January 17, 2003**

More information may be obtained from our web site at:  
<http://www.caldialysis.org/EVENTS.htm>