

CDC Report

Friday, November 21, 2003

Oakland, California

Legislative Report and State Budget: Michael Arnold presented the following up-date from Sacramento.

This was a busy week in Sacramento. The new governor was inaugurated and on his first day in office he: 1) repealed the Vehicle License Fee (VLF) increase, 2) fired the head of DMV, and 3) called for three concurrent sessions of the legislature to deal with Workers Compensation, SB 60 (drivers license for undocumented persons), and the fiscal crisis.

The fiscal crisis is particularly important to the health care community because of Medi-Cal. The only way to reduce the cost of the program is to cut eligibility, benefits or reimbursement. All three would have a negative effect on dialysis provider.

There is currently a deficit of approximately \$27 billion. The new governor is proposing a bond issue on the March ballot for \$15 billion. An absolute limit on state spending would be tied to this bond issue. The initiative (proposition 56: Budget Accountability Act) will state that the governor and legislature must pass the budget on time. If they do not, salaries and benefits will stop and they will not be allowed to leave Sacramento until the budget is passed. Tied to this measure will be a reduction in the percentage of legislators needed to pass a budget.

Michael Arnold stated that it is clear that this administration will make recommendations that will have an adverse impact on health and human services. We will need to remain very politically active to be sure that the legislators know that our patient community cannot sustain any further cuts in benefits.

Michael stated that CDC has been successful in achieving positive results for the dialysis community.

1. This year SB 370 was sponsored by CDC to remove the treatment authorization request (TAR) process with Medi-Cal. Effective January 1, 2004, the TAR process will be removed for dialysis.
2. CDC, working with the BVNPT, was successful in having regulations adopted that allow LVNs an expanded scope of practice in dialysis. Sean Graham reported that with evidence of supervision, training, and policies and protocols in place, he believes LVNs can initiate and discontinue dialysis via central line catheter as well as administer the specific medications covered by the regulations. Sean cited two recent Northern California DaVita surveys in which LVNs were allowed to perform these tasks.
3. In their on-going efforts to reduce costs, Medi-Cal set frequency limits on laboratory tests for covered patients. CDC was successful in lobbying Medi-Cal to exempt dialysis patients from these frequency limits.

The California Medical Association has filed a law suit challenging the validity of the 5% Medi-Cal cuts enacted this year. They have requested a temporary restraining order, but there is no news at this date. CDC was going to set up a fund in support of this lawsuit but has not moved forward with the special fund yet. CDC will be sponsoring legislation to exempt dialysis patients from any future Medi-Cal rate cuts.

A Legislative Day is scheduled for Wednesday, January 14, 2004, at the Sacramento Convention Center. Michael asks that all try to come and support this effort. He also suggests that anyone planning to attend and to spend the night should make those overnight arrangements soon. January is a busy legislative month in Sacramento. Members should request a meeting with their own legislator after lunch and may go to www.leginfo.ca.gov to find out who their legislators are. Fact sheets and "Do's and Don'ts" for visiting with legislators will be distributed at the meeting.

Last year the state Department of Health Services (DHS) sponsored AB 1739, the dialysis technician training/certification bill. CDC worked closely with DHS in developing the language for the bill. Unfortunately, DHS added a last minute amendment that dealt with the way they reimbursed for drugs and the drug industry lobbied successfully against it. The new administration has placed a six month hold on all regulations currently in the pipeline and we do not know how this will affect the Technician Training bill. Michael suggests that we pick up last year's bill and re-introduce it as it was written.

Regulatory Report:

California Building Code standards. Michael Arnold reported that there is a California standard that requires an air filtration system that provides for 90% air filtration throughout the entire facility. Michael reported that we are awaiting a hearing at the Building and Standards Commission to see if they will override the air filtration for dialysis. Commission staff have recommended that the 90% filtration requirement be left in place as they are concerned that dialysis patients might be exposed to air-borne virus. FMC has presented data and arguments for the exemption of dialysis facilities from this Uniform Building Code requirement. There is only one other state that requires 90% air filtration.

The other building-related issue for dialysis providers is the I-versus B-occupancy requirement. I-occupancy is now a requirement by the State Fire Marshall. Part of the problem faced by the community is that enforcement of the code differs between counties. Michael stated that these two building code issues are very difficult to deal with and he does not have much hope that we could be successful in pushing for change.

Peritoneal Dialysis in Skilled Nursing Facilities:

Dr. Phillip Ng stated that twenty Northern California nephrologists have requested a SNF that would support peritoneal dialysis. Hospital stays are being lengthened because they are unable to place PD patients in skilled nursing facilities. Some patients are being forced to change modality to hemodialysis since they cannot find a SNF for PD. For their part, the skilled facilities believe that dialysis patients require more nursing care, require more training for staff, and cause potential liability for the facility. Carol DiRaimondo suggested that we involve Dr. Barry Straube of CMS Region 9 in this issue as she said he has an interest in SNFs and dialysis. She stated that CMS is also looking at this issue because it will become more of a problem as the ESRD population ages. It was moved and approved by the Board that Dr. Ng author a letter to CMS on the subject.

NRAA Report: Cindy LaMunyon submitted the following report for the Board:

The Group Purchasing Organization has signed a contract with Amgen. For information, call 866- 672-2476.

NRAA has joined with RPA to urge CMS to reappraise the proposed change in nephrologists fee schedule. They will now address Tom Scully to delay the change pending further investigation into operational issues.

Cindy reported that the Medicare Conference Agreement:

1. Provides one 1.6% increase in the composite rate in 2005, and nothing in 2004 or 2006.
2. Provides a one-year carve-out from AWP reform for separately billable ESRD drugs in 2004.
3. The Centers for Medicare and Medicaid Services (CMS) has announced they will issue a final regulation by the end of 2003 changing reimbursement levels for ESRD and other separately billable drugs for 2005. The new legislation will end the practice of reimbursing Medicare covered separately billable drugs at 95 percent of the Average Wholesale Price (AWP) and instead replace it with a new system based on Average Sale Prices (ASPs) which will be determined by the Office of the Inspector General (OIG) at the Department of Health and Human Services (HHS).
4. Does not include an extension of the ESRD Medicare Secondary Payer Provision.

Network Report:

Arlene Sukolsky reported that there are two vacancies for the Network #17 Board of Directors beginning in 2004. She further reported that the Network relationship with survey agencies is good at this time, the recent GAO/ Grassley report in which CMS Region 9 was commended for the strong collaborative relationship with survey agencies and Networks.

Dr. Larry Spergel will speak at the afternoon educational meeting on the topic of National Vascular Access Improvement Initiative (NVAII). CMS expects Network #17 to increase the prevalence of AV fistulae by 4% by 2006. This is a performance-based contract with CMS and if the goal is not achieved, the Network contract is subject to review and competitive bidding. Lynn Field is responsible for coordinating the project.

Network #17 is planning to participate in the E-Lab Project that will allow direct download of aggregate lab information from National ESRD specific labs. And reduce the paper reporting burden for dialysis facilities.

Finally, Brady Augustine of CMS is stating that the new Conditions of Coverage will be out next year.

Medicare/ Medi-Cal Report: Cindy LaMunyon reported as follows:

Cindy reminded those present that Anthem and Wellpoint have signed a merger agreement. Wellpoint is UGS, but Cindy does not believe that the merger will affect dialysis providers. Cindy distributed a letter to any who are interested in participating in drafting the National Coverage Decision for EPO for ESRD. The letter included time lines.

Carol DiRaimondo delivered a report on Part B Medicare. CDC provides the only representative to NHIC (the Part B Carrier). Carol DiRaimondo is the representative and Brian Wong is the alternate. NHIC is currently awaiting a new medical director. One of the former medical directors from NHIC has gone to UGS and Carol stated that she thinks this will bring new ESRD expertise to UGS. There were four "Town Meetings" posted by CMS and the Part B carriers. Carol and Brian attended the meeting in San Francisco. Brian has been asked by the Renal Physicians Association (RPA) to participate in developing representation for the National Carrier Advisory Council on behalf of the ESRD community. Brian stated that nephrologists from other parts of the country have no cohesion regarding legal and regulatory issues. CDC provides that opportunity for California nephrologists.

CDC is working with Amgen to re-write the Medi-Cal EPO policy regarding reimbursement. A copy of the letter from Susan Vogel to Dr. Farber of Medi-Cal was distributed. The plan would increase hematocrit levels to 39 and increase the limit of EPO to 90,000 units per week.

Membership Report: Sandra Wilson reported that CDC must continue its efforts to boost membership. She suggested that recruiting efforts might be directed toward individual memberships. Perhaps an incentive might be offered, for example any person bringing in three memberships would pay half price for their own. Carol DiRaimondo suggested that since CDC will offer CME for the Annual Meeting in Palm Springs, a letter should be sent to the medical directors for dialysis facilities to encourage their attendance. Cindy LaMunyon stated that there are very few state associations representing the dialysis community and CDC is very valuable for the facilities in California. She gave the example of a recent Medicaid cut of 2.5% in the state of Texas that caught the provider community completely off guard.

Other Business:

1. The Medi-Cal TAR elimination, according to Michael Arnold, is for treatment only. He stated that there is a possibility it might extend beyond dialysis treatment, but we will not know for sure until it is implemented.
2. Discussion ensued regarding insurance co-payment issues. Michael Arnold suggested that anyone who has patient-specific issues contact California Health Advocates - Health Insurance Counseling and Advocacy Program (HICAP), the organization funded by the California Department of Aging and the insurance industry to advocate for patients. <http://www.cahealthadvocates.org/> or call 1-800-434-0222
3. Issues were discussed regarding Medicare + Choice increases in co-payments for patients. Tom Paukert suggested that NKF be involved. Brian Wong suggested that we also bring this issue to the attention of Dr. Barry Straube with CMS.
4. Cindy LaMunyon stated that there will be an ESRD Open Door meeting on December 12 at 1 pm EST. Cindy urged participation in this call for the purpose of discussing the above-mentioned insurance issues. Debra Punch suggested that a patient who has experienced insurance co-payment issues also participate.

Next Meeting:

January 14, 2004 (Wednesday) in Sacramento.

For more information and a registration form, please check our web site at:

http://www.caldialysis.org/next_meeting.htm