

# CDC Report

Friday, October 17, 2003

Los Angeles, California

**Legislative Report and State Budget:** Michael Arnold presented the following up-date from Sacramento. There is much scrambling in Sacramento for appointed positions and new jobs for in-coming appointees. The in-coming governor has appointed a transition team of 65 persons. It looks as if a number of Pete Wilson administration people will be coming back.

The State has an \$8-10 billion structural deficit, as a conservative estimate, for the next fiscal year. There are other areas of deficits such as a \$2 billion deficit in the pension fund. All totaled, it appears that we have approximately a \$20 billion deficit effective the first day for the new administration.

The Vehicle License Fee (VLF), which was a hot topic for the recall, is not a state revenue source, but a local one. The VLF monies are used to pay fire, police, libraries, etc. It is a very complex issue and its repeal will add another \$4 billion to the deficit. Of interest to the CDC, the new governor has very few areas in the state budget where he can make cuts. He campaigned with promises not to cut education and not to raise taxes. He will probably focus on reductions in state government (employees) and Medi-Cal. We will have to work hard to protect even our reduced Medi-Cal rates.

*SB 857:* This new law (effective 1-1-2004) is an attempt by the Department of Health Services (DHS) to get the authority to deal with Medi-Cal fraud. Michael had asked that dialysis be exempted from several areas, particularly in clinical laboratory testing. The attorney for DHS responded that from her experience, there are fraud issues in the dialysis industry and especially with regard to those dialysis companies that own their own clinical laboratories. After discussion, it was decided that Michael will meet with the Executive Committee to determine whether it would be advisable to have a representative of Electronic Data Systems (EDS) come to a Board meeting to discuss these issues.

Michael distributed a copy of the bill to those in attendance and pointed out some areas of concern. A summary of those concerns follows:

- DHS will be allowed to require a provider group or a sub-group to re-enroll in Medi-Cal. This is intended to weed out the “bad guys” and will start with areas DHS believes are fraud concerns. If a provider in one of these groups relocates, they will be required to re-enroll in Medi-Cal.
- DHS will be allowed to place a moratorium on re-enrollment if they believe there are already enough providers in a geographic area.
- A new section has been added to the Welfare and Institutions code that requires a signature by the person from whom a biological specimen is obtained for laboratory testing purposes. However, it appears that if the testing is performed on a regular periodic basis, only one signature might be required. Michael will work with representatives of the DHS to determine how the dialysis community might be able to comply with this requirement.

*Grassroots Committee:* Judith Filangeri reported that the CDC web site has an icon located in the legislative status section that a visitor can “click” and enter his/her zip code. This will provide the legislators (both state and federal) for the zip code. Additionally, Judith reported that she has developed a brief “How To” document for elected representatives visiting dialysis facilities.

## **Regulatory Report:**

*LVN issue:* Sean Graham was unable to attend the meeting but reported to Mike Paget that things “seem to be working OK.” Apparently when surveyors have cited facilities for LVNs being utilized as directed in the BVNPT regulations, the BVNPT board has been successful in challenging these citations.

*STAR:* Karen Dyer distributed a CMS memo describing the pilot test of a new survey tool. This hand-held electronic device will be used by surveyors in ESRD facilities to guide the surveyors through the ESRD survey and certification process. STAR is being pilot tested in five states beginning in 2004. Comments were made that it seemed odd to pilot test a new system using the existing Conditions of Participation when new conditions are expected to be released in the near future.

*California Building Code Standards*: Michael Arnold reported that there is a new California standard that requires an air filtration system that provides for 90% air filtration throughout the entire facility. FMC requested that the State Building Commission exclude dialysis and the request was denied. A meeting has been set for November to discuss this issue as it could potentially greatly increase the cost of building new dialysis facilities in California.

**NRAA Report:** Cindy LaMunyon reported as follows:

- **NRAA Responds to CMS' Proposed Changes to Medicare AWP Reimbursement:** In the comments, the NRAA requests that CMS exempt dialysis providers from the proposed changes and instead maintain the current 95% of AWP reimbursement for ESRD related drugs provided in a dialysis facility.
- A copy of the NRAA written comments sent to CMS regarding changes to Medicare covered drug reimbursement rates can be found as Report #471 in the Members Only section of the NRAA website at: [www.nraa.org](http://www.nraa.org).
- **NRAA Requests That CMS Withdraw Its Proposed Changes to the 2004 Nephrologist Fee Schedule:** In addressing the overall outlook on improving quality of care, the NRAA states that dialysis providers must work in collaboration with physicians to ensure positive patient outcomes. The NRAA believes that the compensation issue is very complex and will require a comprehensive problem solving analysis, which includes the evaluation of many options, before any final decisions can be made. The NRAA is fully supportive of a process to appropriately evaluate a system that promotes the provision of high quality care that fairly compensates the physician, but this process needs to be formulated by getting input from all renal community experts. A copy of NRAA's comments sent to CMS on changes to the Medicare Capitated Payment for nephrologists has been posted as Report # 472 in the Members Only section of the NRAA website.

#### **ESRD Network Report:**

1. **NATIONAL VASCULAR ACCESS IMPROVEMENT PROJECT ("FISTULA FIRST").** All 18 Networks are continuing to develop initiatives to improve vascular access outcomes in general, and fistula placement in particular, as part of the new CMS contract. The national goal is for 40% of prevalent patients and 50% of incident patients to have fistulas by 2010. Each Network has an individual goal that supports achievement of the national goal. Most Networks, including Network 18, must achieve 4% improvement by June 2006; a few have to reach 3% or 5% improvement.

Approximately 25 facilities have volunteered to participate in the initial effort, although all facilities will be submitting data and should have vascular access management as component of their current QI program. We will be working in the San Diego area with UCSD as well as FMC, DaVita and Gambro facilities. Other facilities in the initial group are in the Los Angeles area. Facilities wishing to participate at this early stage should contact Vickie Peters, QI Director.

CMS and the Networks continue to work closely with the Large Provider Organizations ("chains") on data collection/transmission issues, with JCAHO to elevate vascular access as a quality indicator for inpatient facilities, and with renal professionals on vein mapping and other reimbursement issues that will support vascular access outcomes improvement.

We are pleased to be able to partner with the CDC to present a 2 hour symposium on vascular access at the 2004 Annual Meeting in Palm Springs.

2. **HOME HEMODIALYSIS.** As reported at a recent meeting involving CMS Region IX, DHS and Network 17/18 representatives, there is no moratorium on applications for home hemodialysis services. However, CMS will monitor applications closely as part of its continuing evaluation of nursing home dialysis issues. There are four home hemodialysis applications pending in San Diego County alone. Providers are reminded that PD and home hemodialysis services must be separately licensed and certified.
3. **INITIAL LICENSURE/CERTIFICATION VISITS.** There is no "moratorium" in effect since October 1, 2003. Initial visits remain a Tier 3 activity in the DHS Work Plan and District Offices will manage their overall workload accordingly.

4. NETWORK 18 BOARD OF DIRECTORS AND MEDICAL REVIEW BOARD ELECTION. We are conducting the general election to fill 17 Board positions and 7 MRB positions. Nominations have been solicited from all facilities and the final ballot will be forwarded in early November.

**Medicare Report:** Cindy LaMunyon reported as follows:

- All Medicare institutional providers, Part B physicians, non-physician practitioners, and suppliers who administer the influenza virus vaccine must use the new diagnosis code ICD-9-CM, V04.81 for claims with dates of service on and after October 1, 2003.
- The October 2003 Single Drug Pricer has been published on the CMS website at: <http://cms.hhs.gov/providers/drugs/default.asp>.
- Effective October 1, 2003, payment for the pneumococcal vaccine was increased to \$18.62. Annual Part B deductible and coinsurance amounts do not apply. All physicians, non-physician practitioners, and suppliers who administer the pneumococcal vaccination must take assignment on the claim for the vaccine. For additional information about immunizations, refer to the Immunizations Quick Reference Guide at: [www.cms.hhs.gov/medlearn/refimmu.asp](http://www.cms.hhs.gov/medlearn/refimmu.asp).
- The next UGS PCOM meeting is scheduled for December 4, 2003, in Burbank, California

**Medi-Cal Report:** Cindy LaMunyon reported as follows:

- Effective 9/22/03 vaccines are the only ESRD services subject to the new national billing code requirements. Vaccines administered from 9/1-9/21/03 must be billed using the old Medi-Cal 'X' codes. Vaccines administered from 9/22-9/30/03 should be billed with the 2003 national codes.
- TAR Elimination – Concern regarding integration of TAR Elimination. Swirling questions – What document(s) will Medi-Cal use to determine primary/secondary status? How will they adjudicate initial claims for new dialysis patient?

*EPO Issue:* Kelley Wright with Amgen discussed the EPO letter drafted by Dr. Carol DiRaimondo and Sue Vogel to Dr. Michael Farber. She stated that she felt the letter looked good, but she, again, suggested that a separate dialysis EPO policy should be adopted by Medi-Cal.

*CMA Lawsuit:* Michael Arnold reported that the coalition, which has been organized by the California Medical Association (CMA) for the purpose of fighting the Medi-Cal 5% rate reduction, is filing a lawsuit against the state. A meeting is scheduled for Monday, October 20, with the coalition members and Hooper, Lundy and Bookman law firm. Hooper et al are well known in the medical field as successful litigators. CMA says they cannot fund the litigation on their own and have asked other coalition members to participate. They would like to have \$10,000 from each of the 40-50 members of the coalition. Michael Arnold recommends that we join the litigation and perhaps give money to support it. Judith Filangeri of U.C. San Diego and Mike Hillberry of Bakersfield Dialysis both stated that they have had transportation services notify them of their intent to discontinue transporting their dialysis patients due to the rate cuts. Michael Arnold will inform CMA that we would like to be a plaintiff in the case and that we may add funding. Peter Crooks suggested that we raise funds for a special fund for this purpose instead of using CDC's limited general funds. Additionally, a special fund would limit our financial liability for this project.

**CDC Program Committee:** Peter Crooks reported for the Program Committee and stated that progress is being made on the program for the Annual Meeting. The following speakers have been confirmed for the November Educational Meeting: Larry Spergel, MD, Arlene Sukolsky, and Arthur Lurvey, MD. Dr. Barry Straube with CMS is unable to attend the meeting this year due to conflicting meetings with CMS. The Annual Meeting is set for April 1-3, 2004 in Palm Springs.

**Membership Report:** Mike Paget reported for Sandra Wilson. Arroyo Dialysis in Pasadena has joined CDC and American Regent renewed its corporate membership. Effective October 16, 2003, there are 91 facility memberships with 4 facilities in addition to Gambro not renewed. There are 13 Corporate members with 2 not renewed, 10 individual members with 1 not renewed, and 14 physician members with all renewed.

**Other Business:** Mike Paget distributed a list of possible Board Meeting dates for 2004. In 2003, there were three months in which no Board meeting was held but the 2004 list included only two months without meetings. Since the potential meeting date for March 2004 was only two weeks prior to the Annual Meeting in Palm Springs, the attending Board members decided to delete the March meeting. There was discussion regarding possible different locations for the Southern California meetings such as San Diego and Orange County. By consensus, the Board members present decided to leave the projected meetings as scheduled. The approved schedule follows:

January 14, 2004 ( <u>Wednesday</u> )	Sacramento at the Sheraton Grand Hotel
February 20, 2004	Los Angeles, at the Ramada Plaza Hotel
March	No Meeting
April 1-3, 2004	Palm Springs Wyndham Hotel- Annual Meeting
May 21, 2004	Los Angeles, at the Ramada Plaza Hotel
June 18, 2004	Oakland, at the Hilton Oakland Airport
July	No Meeting
August 20, 2004	Los Angeles, at the Ramada Plaza Hotel
September 17, 2004	Oakland, at the Hilton Oakland Airport
October 15, 2004	Los Angeles, at the Ramada Plaza Hotel
November 19, 2004	Oakland, at the Hilton Oakland Airport (Education Meeting)
December	No Meeting

**Next Meeting:**

**November 21, 2003**

**Hilton Oakland Airport Hotel**

**Board Meeting & Educational Seminar**

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

[http://www.caldialysis.org/next\\_meeting.htm](http://www.caldialysis.org/next_meeting.htm)