

# CDC Report

Friday, September 19, 2003

Oakland, California

## Legislative Report and State Budget

Michael Arnold presented the following up-date from Sacramento.

*Workers Compensation Reform:* The legislature cut vocational rehabilitation funding and cut reimbursement for chiropractic visits and other areas of Workers Compensation by \$3.5- \$5 billion. The legislature has effectively said that they are giving employers money back through these work compensation changes so the employer community should be able to support SB2 which requires employers to provide health coverage according to the size of the company. Large employers (200+ employees) must provide health coverage for employees and dependents by 2006 or must pay money into a state operated pool for the purpose of providing health coverage. Employees covered under SB2 are all full time employees and those persons working 100 hours a month (24 hours per week). Medium sized employers (50-199 employees) will have to provide coverage for employees, but not dependents by January 1, 2007. Small employers (20-49 employees) will have to provide coverage at such time as the legislature enacts a tax credit for such coverage. There is no requirement for employers with fewer than 20 employees. Dialysis facilities will need to watch their part time employees with regard to health coverage. There will also be adjustments by health plans so that all employers are within a specific rate band. Rate bands are similar to "community ratings" as used by managed care providers.

*SB370 Medi-Cal TAR Elimination for ESRD:* CDC sponsored legislation to eliminate the TAR process for dialysis Medi-Cal patients has been signed into law. CDC will need to work with the Department of Health Services on the implementation process.

*AB 1739 Hemodialysis Technician Training Act:* DHS tried to add drug amendments to our bill and the drug companies fought and killed it. The Department is embarrassed about this and will reintroduce our bill in January. We will need to assure that the language does not get changed during that process.

*ACR120:* The California Chronic Kidney Disease Day has also been chaptered. The Board suggested that we introduce a new day in 2004 and that we should check with ANNA to see what date they have chosen so that we can, again, coordinate dates. Sheila Doss reported that 123 legislators across the country visited 83 facilities as a result of the ANNA day of recognition.

*SB857 (Spies):* The Medi-Cal fraud and abuse law becomes effective January 1, 2004. One of the provisions requires that all health care providers request new Medi-Cal provider numbers. A second provision requires that patients sign for all lab tests that are performed. Both of these provisions are onerous. CDC will work with the State Department of Health regarding implementation. It is not clear at this point in time whether Medi-Cal only patients will be covered under these provisions or whether it will be all Medi-Cal coverage. Michael reported that he requested a dialysis exemption but it was denied.

*Plan for 2004:* Michael Arnold suggests that in January 2004, CDC should sponsor dialysis-only legislation that would exempt dialysis providers from the MediCal rate cuts. It should be introduced on an urgency basis that would require a 2/3 vote in both houses.

*Medi-Cal Rate Cuts:* A 5% MediCal rate cut has been enacted by the legislature. The current rate is \$141.31 and will drop to \$134.24 on January 1, 2004. Jan Anderson reported that this will be \$9.38 less than the Medicare rate in Northern California and \$8.50 less than the Medicare rate in Southern California. This represents a \$1,500.00 per year reduction for Medi-Cal only patients (excluding medications).

Michael Arnold asked at what point providers will begin to refuse Medi-Cal patients. Several Board members stated that they did not feel the community should make such a statement. They felt that facilities would continue to provide care for Medi-Cal patients and, additionally, that such a statement would likely alienate people.

Michael suggested that the January 2004 Board meeting be held in Sacramento on a Wednesday so the CDC Board can lobby legislators following the meeting (until approximately 5pm). The Board approved a January 14, 2004 meeting in Sacramento.

Michael distributed his legislative summary to those in attendance.

*Epogen:* Kelley Wright with Amgen reported that in 2002 Medi-Cal recognized that there might be fraud and abuse associated with the use of injectable drugs. In a strategy to develop a maximum level they were willing to reimburse, Epogen was included on the list with a limit at HCT 36 or 150 u/ Kg body weight. These parameters were applied to EPO given for any reason. This limitation causes a discrepancy between Medi-Cal reimbursement and drug amounts necessary to meet K-DOQI guidelines. Kelly has been communicating with Medi-Cal and they are willing to work with the dialysis community to resolve this discrepancy.

Medi-Cal does not have the electronic capability to check rolling hematocrit levels as Medicare does. Tom Paukert suggests that a "hard edit" similar to the Medicare 39 be used. Gene Andes, MD, with Amgen suggests that we request that dialysis patients be carved out into a separate policy as dialysis is not the most problematic for Medi-Cal regarding fraud. Dr. Andes further suggested that Medi-Cal will want a target hematocrit, but that a target number for a whole population is not medically sound. These targets should be individualized, but if a population based number must be adopted, perhaps it should be a HCT of 40 with a maximum of 60,000 units EPO per week before additional documentation would be required. This would simplify the Medi-Cal edit process and reduce the number of records needing review saving time and money for Medi-Cal.

Dr. Carol DiRaimondo will draft a letter and will work with Cindy LaMunyon, Tom Paukert, and Jan Anderson.

*Grassroots Committee:* Judith Filangeri reported that she had a state senator visit UCSD yesterday. They gave the senator a copy of the ANNA document and she interviewed patients. Many photos were taken and it went very well. Judith encourages others to do the same. Amgen paid to have a number of the ANNA documents printed and they came out very nicely and some are still available.

### **Regulatory Report:**

*LVN issue:* The BVNPT has written to Carol Wegner with the State DHS to request that the State develop something in writing for surveyors in dialysis for the purpose of clarification. To date nothing has been released.

Sean Graham encourages all facilities who will be using LVNs under the BVNPT regulatory language to be certain they have standardized procedures written for the activities LVNs will perform and make sure they have adequate documentation of training and competence. Sean stated that they performed follow-up training when they permitted LVNs to return to the allowed activities.

### **Network Report:**

Carol DiRaimondo delivered a report for Arlene Sukolsky and Network #17:

1. The MRB will be working to develop a plan for approaching the National Vascular Access Implementation Initiative (NAVII).
2. Staff from all Networks went to Baltimore for NAVII planning, but came home early as a result of hurricane Isabel.
3. There are Board of Directors openings and a call for nominations will be forthcoming.

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

1. The Automatic Multichannel Test Program Memorandum (PM) does not include edits for ESRD and claims should not be denied.
2. The EPO Program Memorandum (PM) was reissued on September 1, 2003 for another year. This will not be a long-term solution. Most FIs have their own Local Medical Review Policies (LMRP) for EPO and they are all over the board regarding reimbursement parameters. It would be bad if the current PM goes away without some kind of National Coverage Decision (NCD) in place.

3. The P-Com (provider communication group) met in San Francisco and ESRD is finally standing out as a separate group. (Thanks, Cindy!)
4. An ESRD specific listserv from UGS is now available. Sign up on the UGS website for automatic message service. Effective January 1, 2004, there will be a new code for billing EPO, Q4055. This might effect billing for non-Medicare patients as well.
5. Trailblazers (Texas FI) did a widespread review of the use of L-Carnitine. 250 claims were reviewed and 96.7 percent were denied because they did not meet the NCD guidelines. Not only must the basic clinical parameters be met, but it is also important to document improvement and for the physician to state that, in his/her professional opinion, the condition would reverse without the drug.

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

1. Medi-Cal has a dialysis specific area on their website but a provider number is necessary to access the area.
2. We will need to carefully follow the implementation process on the TAR elimination.
3. Hospital-based providers are getting a higher reimbursement rate and the correct condition code will be posted on the CDC website.
4. The old HCPC code should be billed until September 21<sup>st</sup> and the new after September 22<sup>nd</sup>. Information is included under the HIPAA section of the Medi-Cal website.

Carol DiRaimondo reported that there are many changes in National Heritage Insurance Company (NHIC). Dr. Jerry Rogan is gone and Dr. Art Lurvey has switched to UGS. Brain Wong and Carol will attend the Carrier Advisory Committee (CAC) meeting in October. Brian stated that he attended the National Carrier Advisory Panel where the West Coast has been under represented. The Renal Physicians Association (RPA) has recruited Brian to join the CAC nationally with the RPA. The meeting is October 9-10 in Washington DC and Brian will report back.

**Membership Report:** Mike Paget reported for Sandra Wilson. American Regent has renewed its membership for the year. Gambro has still not renewed. Effective September 19, 2003, there are 90 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.

**CDC Program Committee:** Mary Brattich reported that the committee is working on the program for next year's Annual Meeting. The current plan is to end the meeting prior to lunch on Saturday as many attendees leave before then. However, they are considering having Saturday evening entertainment as an optional event.

There were requests to decrease the clinical topics and increase administrative.

The Annual Meeting is set for April 1-3, 2004 in Palm Springs.

**Next Meeting:**  
**October 17, 2003**  
**Ramada Plaza Hotel LAX North**