

CDC Report

Friday, September 17, 2004

Oakland, California

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

The Governor is vetoing many bills- probably 30-40% of the bills he has reviewed in the past few days. As a result of the state's fiscal crisis, if it costs money, the Governor will probably veto it. Michael will review legislation at the next Board Meeting. We are watchful of the California Performance Review (CPR) and the effects it might have on our community. Michael feels that most of the recommendations will fall by the wayside and some may wind up in the Governor's January budget. The area of most concern is Medi-Cal redesign which would put more people into managed care, including the aged, blind and disabled. The legislature is currently out of session and there is not much activity on in Sacramento. Michael stated that the "fruits" of term limits have now been fulfilled since all of the long-time legislators are gone and the institutional memory with them.

Grassroots Committee: Judith Filangeri reported that she has requested a "drip" style communication with Senators and Congressional Representatives with regard to the ESRD Modernization bills. We would like to encourage additional people to co-sponsor the bills. Judith says that she is not being notified, as she had requested, when people are contacting their legislators.

CMS Rule-making proposal regarding payment for Dialysis Services: Jan Anderson distributed a draft copy of comments from CDC regarding this rule-making. September 24 is the deadline for comment. CDC has been interacting with Kidney Care Partners (KCP) and NRAA regarding the proposed rule. In June, CDC developed a position paper concerning the wage index as it related to California. The CDC draft comments regarding MMA changes in reimbursement deal mainly with the geographic wage index.

Jan reported that we are not comfortable with asking that CMS apply the current hospital wage index for dialysis because MMA has changed the way the hospital index is developed. They merged urban and rural providers to develop a blended rate and urban hospitals are very unhappy with it. Further, CMS has stated they will not apply new indices prior to April, 2005, as they will not be capable before then. We would like to suggest that ESRD changes also be delayed and that our reimbursement be based upon current wage costs. The following recommendations were proposed.

1. There must be an update to a geographic wage adjustor for dialysis facilities. To base 2005 reimbursement on 1976 wage rates is unacceptable.
2. There is not time prior to January 1, 2005, to analyze the various existing wage indices for their potential applicability to dialysis providers. Therefore, implementation of an updated geographic wage adjustor should be delayed until April 1, 2005 or later, along with other elements not being implemented until then (e.g. case mix adjustor).
3. We are aware that in the hospice arena there is a Hospice Wage Index Negotiated Rulemaking Committee. We recommend the same type of committee be created for ESRD, composed of CMS and dialysis personnel to work on this issue and make recommendations for an index to be applied effective April 1, 2005.
4. Pediatric patient age should be included as a case mix variable.
5. Patient age and co-morbidities should be included as case mix adjustors.
6. Implementation of the case mix adjustors should be delayed beyond April 1, 2005. This is a very complex issue. If CMS has the authority to delay implementation until April 1 in spite of the language of MMA, then it has the authority to delay longer until this issue can be analyzed in greater depth. CMS needs to provide the statistical model/data base used in the NPRM so that it can be evaluated by all affected parties.
7. The exception request process for rural providers should be reinstated.

The Board moved, seconded and approved Jan Anderson and Peter Crooks finalizing these recommendations and submitting them prior to the September 24th deadline. The membership was encouraged to send their own comments as well.

Regulatory Report: Two representatives of the State of California Department of Health Services were invited guests at the meeting, Beth Hinerway (sp) and Barbara Gagne, RN. Barbara handed out her business card with contact information for anyone who might have questions after the meeting.

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Budget concerns are impacting the number of staff in the licensing and certification division. ESRD is currently considered "tier 3" category for surveys. The tier 3 surveys are supposed to occur every three years, but as a result of staffing shortages, they do not occur at that frequency. The Department focus is on facilities with known problems, or those which

have had many years since their last survey. Some of the areas Barbara said were commonly problematic were infection control, staff competency and physical plant issues. Questions from attendees were invited.

Ann Robar addressed the issue (from the May Board Meeting) dealing with no state licensure for free-standing home training programs. Ann stated that the facility in question is now open and Medicare certified. She said they have not experienced the problems she feared as a result of not being licensed. Barbara Gagne told the group that the State of California is no longer licensing home training centers that are free-standing. Her office and Santa Rosa have requested that those facilities holding existing licenses return them to the Department; she was unsure whether other area offices have actually requested return of the licenses. She did say, however, that if a facility has submitted a license fee, it will not be refunded. She additionally said that if a home training program is being added to an existing in-center program, it will probably be initially handled via paperwork and the initial survey will occur when the Department performs a routine survey of the in-center facility.

With regard to opening a new facility, Ms. Gagne stated that the new facility takes survey precedence over recertification surveys. However, she stated that the State of California position for opening surveys for all types of facilities is that the survey can wait for up to one year. Contra Costa is trying to make the new facility survey occur within 30-90 days. She also stated that ESRD surveyors are trying to raise the status of ESRD to a "tier 1" survey. If that occurs, 33% of facilities will be recertified each year. CMS drives the prioritization of surveys.

Michael Arnold asked that Barbara describe her organization. She said there are 17 District Offices for licensing and certification and that they are specialized and regionalized. The Contra Costa office handles Skilled Nursing Facilities, Acute, Specialty Clinics and ESRD. There is one district administrator (herself) with 4 supervisors and 16 evaluators. There have been no new ESRD facilities in the Bay Area in over 60 days. Licensing surveys typically take one day and certification surveys, two. She suggests that providers who intend to open new facilities get in touch with the District Office as soon as possible to establish a relationship. It is in their best interest to keep the office posted on their progress.

Ann Robar asked how complaints are handled. Barbara stated that the Department works with the ESRD Network before and after each complaint visit. The Network is contacted to see if there are trends for a particular facility. A "priority 1" visit occurs within 24-48 hours when something serious has happened. "Priority two" visits cover a wide range of complaints. They might occur as a result of medical symptoms, facility temperature, etc. Complaint visits are backlogged. Priority 1 visits are being handled and priority 2 are triaged. The law requires that all complaints are investigated.

Michael Arnold stated that inconsistencies in interpretation of the rules are problematic across the state. Michael suggests that CDC do a better job of inviting DHS personnel to attend annual and educational meetings.

Beth said that patient interviews and medical record review are very informative regarding the quality of care at a facility. Some examples she cited regarding physical plant problems are:

- Water, trash, tubing, pipes on the floor, filth on the tanks in the water treatment room (they are very particular about water quality)
- Separate clean and dirty areas
- Where are dirty syringes? The Department finds them laying around in some facilities.
- Blood spatters on walls
- The facility does not adequately clean between treatment days

Two areas she said were important from her perspective are acute dialysis contracts with hospitals and communication with SNFs. She stated that acute dialysis programs must meet the same regulatory requirements as outpatient centers in terms of record keeping, water quality, staff competency and equipment maintenance. She emphasized the need for coordination between dialysis facilities and SNFs and suggested that the facility maintain records of information/in-service they provide for staff at the SNF. Ann Robar stated that it can be frustrating to attempt communication under the circumstances of the chronic turnover of staff at the SNFs. Ann stated that there is no continuity of communication within the SNF so information provided by the dialysis facility gets lost in the turnover. Ms. Gagne suggested that dialysis providers make use of the Department's hotline to report SNFs that appear below standard. She stated that the dialysis provider is responsible only for providing information to the SNF.

Michael Arnold stated that we have experienced difficulties with the Medi-Cal reimbursement rate in ESRD. Barbara stated that her office does not get involved in financial matters. She did say that she and her staff have been speaking with CMS and Medi-Cal regarding the acuity of patients across the board. Michael asked that she send an e-mail to Willie Brennan regarding this issue.

I 1.2 Building Standards: Sean Graham reported back to the Board on his findings on this topic. There are five states (California, Washington, Oregon, Colorado and Georgia) that require 100% compliance with I 1.2 building codes. DaVita finds that the additional cost for construction varies between \$75,000 and \$135,000 to meet these codes depending upon the condition of the building. A California advisory board of six state fire marshals recommends that dialysis facilities be built to I 1.2 standards. However, local fire marshals have the authority to reduce the requirement to B occupancy. If anything should happen and the local marshal has reduced the requirement, that marshal has liability/responsibility. Therefore, most local fire marshals uphold the state advisory board recommendation for I 1.2. Rich Turner stated that the above also reflects Gambro's experience and that the dialysis community should probably accept that this is the current state of affairs.

NRAA Report: Cindy LaMunyon reported that NRAA is finalizing their responses to CMS for the MMA changes. The national NRAA meeting is in Denver September 29 through October 2, 2005. Registration is available on line at the NRAA website.

Medicare/ Medi-Cal Report: Cindy LaMunyon reported that October 1, 2004 is the date the new ICD-9-CM changes become effective. There are several code changes that will affect the renal community. For example, the old code 588.8 for secondary hyperparathyroidism of renal origin is being changed to 588.81. There is no grace period any longer for these code changes so they will have to be in effect on 10-1-2004.

Medi-Cal The letter to Dr. Farber regarding EPO reimbursement guidelines has been sent. Additionally, Carol DiRaimondo has been contacted by Dr. Farber regarding Levocarnitine. She is preparing a letter to him on this topic.

Cindy stated that, as far as she is aware, the adjustment due for Medi-Cal underpayment for hepatitis B vaccine has not yet occurred.

ESRD Network Up-Date: Lynn Field, Quality Improvement Director for Network #17, delivered the Network report.

Non-Conforming Patients Workshop. Four Northern California workshops have been scheduled to train dialysis staff in the definitions and techniques developed by the workgroup at Half Moon Bay. The first meeting, in Sacramento, was last week and there were 188 attendees. It was very well received. CEUs are available for RNs and social workers and registration is available on line at the Network web site. Arlene Sukolsky, Executive Director for Network 17, has published an article on the Non-Conforming Patients project and it will be in the November issue of the American Journal of Kidney Diseases.

Clinical Performance Measures. The reports from CMS had errors and are being re-done.

Cannulation Training Camps. Training programs are being held on October 26 and 27 in Oakland and October 28 in Sacramento. They are one-half day in length and are being offered in the morning and afternoon on each of the above dates. Contact hours (3) for nursing continuing education are being offered. The cost is \$35 per attendee and registration can be secured through the Network. *CMS form 2746.* A new ESRD death reporting form has been developed and effective in October, the old form will no longer be accepted.

Membership Report: Sandra Wilson reported that there are 182 facilities renewed at this time and ten corporations. Six facilities and four corporations have not renewed their membership this year. Fifteen physicians have renewed membership and thirteen individuals.

CDC Program Committee: Sean Graham reported that the Annual Meeting is scheduled for April 7-9, 2005 at the Wyndham Hotel in Palm Springs. The Education Meeting is scheduled for November 19, 2004 in Oakland. Some suggested topics were sent to Mike Paget a couple of weeks ago. One suggestion was to have Arlene Sukolsky speak on the Non-Conforming Patients project and take questions. Other suggestions were Larry Park with FMC on the topic of safety and Carol DiRaimondo suggested Dr. Lurvey with UGS, if he is available. Dr. Barry Straube was also suggested as a possibility. Jan Anderson is still willing to speak on the topic of the new conditions for coverage if they have been released by that time. Sean requested that the names and contact information for speakers be forwarded to him. He would like to focus the agenda on topics that would attract exempt staff as that would create less of a financial burden for facilities and would help contain costs.

Other Business:

Michael Arnold reported that he has received a letter from the California Medical Association requesting funds to defend their suit against the state in an attempt to prevent Medi-Cal cuts. CDC will not send money as an organization but other provider organizations may. Attendees were requested to take the financial appeal back to their corporations.

**Next Open Board Meeting:
October 15, 2004 Los Angeles**

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

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