

**NORM DICKS**

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## Congress of the United States House of Representatives

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RECYCLED PAPER

January 30, 2012

Douglas W. Elmendorf, Director  
Congressional Budget Office  
Ford House Office Building, 4th Floor  
Second and D Streets, SW  
Washington, DC 20515-6925

Dear Director Elmendorf:

On behalf of my constituent providers of renal dialysis services and the patients they serve, I am writing to formally request a meeting or conference call opportunity between community representatives and your designated staff to review and discuss an important policy regarding an Affordable Care Act (ACA) provision. The ACA is silent in regards to the insurance treatment of individuals with End Stage Renal Disease (ESRD) seeking to obtain and maintain their private coverage for 30 months under the Exchanges that start in 2014.

ESRD, or kidney failure, is the last stage of chronic kidney disease (CKD). When kidneys fail, dialysis or a kidney transplant is needed in order to sustain life. The most common type of dialysis is hemodialysis, which is generally performed at least three times a week for about four hours each session.

As you may know, based on Section 226A of the Social Security Act (SSA), individuals who are medically determined to have ESRD, who are not otherwise entitled, may become entitled to Medicare Part A benefits, and eligible to enroll in Medicare Part B, the third month after renal dialysis is initiated. Further, Medicare Secondary Payer (MSP) provisions under Section 1862(b)(1)(C) of the SSA provide that a group health plan may not take into account that an individual is entitled to, or eligible for, benefits under Medicare during a 30-month period, which begins with the first month in which the individual becomes entitled to ESRD benefits under Medicare.

MSP coverage is critical as those with ESRD have multiple co-morbidities and rely on private coverage for assistance with out-of-pocket costs and choice of providers. The intent of the ACA was to maximize and protect consumer choice; failure to apply MSP consistently would effectively eliminate consumer choice for patients suffering from kidney failure.

Preliminary industry estimates suggest annual savings of \$211 million in 2014, and \$1.3 billion over 2014-2021. It would be helpful if your staff could meet with a representative of my constituent providers to consider these estimates and work through the federal budgetary implications of a proposed change. I look forward to hearing from you or your staff on the status and result at your earliest convenience.

Sincerely,

A handwritten signature in blue ink that reads "Norm Dicks". The signature is written in a cursive style with a large initial "N".

NORM DICKS  
Member of Congress