



Cosponsor H.R. 8594/S. 4750 – The Restore Protections for Dialysis Patients Act

The Restore Protections for Dialysis Patients Act is not a Mandate

- Historically, Congress has not imposed coverage mandates on employer plans. For example, when Congress banned “drive-through deliveries” in 1996, it prevented plans from shortening the length of stay for new mothers, but it did not mandate any coverage for maternal hospital services.
- In continuing this tradition, the bill’s sponsors Sen. Cassidy (R-LA), Sen. Menendez (D-NJ), Rep. Clarke (D-NY), Rep. Davis (D-IL), Rep. Arrington (R-TX) and Rep. Carter (R-GA) followed the approach laid out in the Mental Health Parity law, which does not mandate mental health coverage, but simply requires parity with analogous treatment limits.
- **The Restore Protections for Dialysis Patients Act does not mandate dialysis coverage - it merely requires parity with analogous treatment limits.** The intent of this bill is not to change the law as it was previously understood, as advocates felt the existing 40-year old statute sufficiently communicated Congress’ intent. More statutory language is needed only because the Supreme Court has required it. The bill attempts to use the least onerous verbiage to restate the *status quo*. The Parity approach was the simplest way, and lightest touch, available to clarify the law. Parity is an equivalent concept to non-differentiation, and no one claims that Mental Health Parity is ambiguous.
- Unfortunately, the Supreme Court decision in DaVita vs. Marietta Memorial Hospital invites employers to carve out dialysis coverage for less favorable coverage forcing them onto Medicare. Even before the decision, some employers were testing whether the non-differentiation requirement could be circumvented. Dialysis Patient Citizens (DPC) previously took more than two dozen examples of these efforts that were inflicted on our members to CMS’ Office of Financial Management, which resulted in letters being sent to all of these parties.
- Dialysis is the only medical treatment for which less favorable coverage or reimbursement is likely to spur disenrollment from private plans and enrollment into Medicare, due to the Medicare entitlement for ESRD. That is why Congress passed non-differentiation protections and why it must be restated.
- At the same time, Dialysis Patient Citizens would not oppose any potential clarification that the bill does not add new rights or responsibilities.

Solution: Cosponsor H.R. 8594/S. 4750 – This legislation would restore the protections for ESRD patients and allow them to stay on the insurance coverage of their choice for up to 30 months.