



March 29, 2024

The Honorable Charles Schumer
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitchell McConnell
S-230, The Capitol
Washington, DC 20510

The Honorable Michael Johnson
H-232, The Capitol
Washington, DC 20515

The Honorable Hakeem Jeffries
H-204, The Capitol
Washington, DC 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and Minority Leader Jeffries:

On behalf of the kidney health professionals who comprise the membership of the American Society of Nephrology and the Renal Physicians Association, thank you for your leadership in improving the health of the 37 million Americans living with kidney diseases, including more than 800,000 with kidney failure. As organizations dedicated to ensuring optimal care of people with kidney diseases—and ultimately, a world without kidney diseases—we urge you to request that the Centers for Medicare and Medicaid Services (CMS) address the excessive retrospective trend adjustment (RTA) policy which will reduce enrollment in innovative care models and inhibit the ability of Americans living with kidney diseases to access care that emphasizes delaying the progression of kidney diseases and expanding patient choice.

Background

Approximately 37 million people are living with kidney diseases, including more than 800,000 with kidney failure or end-stage renal disease (ESRD), a life-threatening condition without a cure. People with chronic kidney disease (CKD) may experience fragmented care and high-cost treatments. Many people with CKD receive limited to no education about their disease and are not made aware of their treatment options. Most people with kidney failure kidney receive dialysis instead of a kidney transplant, a therapy that offers better outcomes for most people with kidney failure and lower cost to Medicare. Annually, Medicare spends more than \$50 billion on the management of people with kidney failure, accounting for over seven percent of Medicare spending, on only one percent of Medicare beneficiaries.

CMS Kidney Models

To improve care for kidney patients, in 2019 CMS launched the Kidney Care Choices (KCC) voluntary kidney payment models, including the Comprehensive Kidney Care Contracting option. These models were intended to reward nephrology practices and nephrologists who invest in delivering care to their patients proactively by shifting from a fee-for-service reimbursement mechanism to a value-based structure where nephrologists capture savings from lowering medical spending while improving quality.

The KCC models were received by kidney health professionals with enthusiasm: nephrologists caring for 40 percent of Medicare fee-for-service patients on dialysis chose to participate in the CKCC. The high participation was due to both the model empowering nephrologists to drive better health outcomes for patients, and the lack of a viable path forward for nephrologists in fee-for-service. Specifically, the CKCC model emphasizes the slowed progression of kidney diseases, reduction of hospitalization, and increased rate of kidney transplantation—goals that hold promise to improve quality of care and reduce Medicare spending.

In the model CMS provides nephrologists a “benchmark” or baseline funding level that is the government’s projection for what should be spent on the care for nephrologists’ patients in a given year. The nephrologists then make investments in services and staff to improve care and outcomes for patients during the year, all the while measuring their work against that “benchmark”. The nephrologists benefit because they capture savings from lower medical spending while improving quality for patients.

Our Concerns

The COVID-19 pandemic has been especially deadly for people with kidney diseases. Compared with the overall fee-for-service population, beneficiaries with kidney diseases had higher rates of COVID-19 diagnoses between March 2020-December 2021. People receiving dialysis had the highest rate of hospitalization from COVID-19 among fee-for-service beneficiaries, and the percentage of people who died after a diagnosis of COVID-19 was twice as high among people with kidney diseases than the general Medicare population.

Because of the devastating impact of COVID-19 on people with kidney diseases, nephrologists urged their patients to avoid infection, including staying home and limiting exposure to health care facilities whenever possible. This inadvertently resulted in a lower utilization rate of services used in the CKCC model compared against the CMS benchmark prepared before the pandemic.

Unfortunately, CMS made a decision in recent months to apply what’s known as a retrospective trend adjustment (RTA) to the “benchmark” because they did not accurately project the baseline funding level for program years 2022 and 2023. This means that reimbursement for the patient care provided in the model will be drastically reduced long after the care has already been provided.

An example of how this works for illustrative purposes is provided below:

- CMS gives a Nephrology Group their proposed benchmark of \$10 million in 2022, which means CMS projects the nephrologists will spend \$10 million providing care to their kidney patients.
- In 2022 the Nephrology Group invests in more staff and services to provide better care to their kidney patients. They improve outcomes for those patients and save money. In the end, the Nephrology Group only spends \$9 million on better care for their patients in 2022.
- In November 2023, CMS told the Nephrology Group they predicted their 2022 spend incorrectly and they will be applying the retrospective trend adjustment which makes the new benchmark \$8 million for 2022. This means that 11 months after the performance

year ended the Nephrology Group goes from saving \$1 million to increasing costs for patients by \$1 million. This impacts their bottom line since they only capture savings after CMS gets its guaranteed taxpayer savings.

The retrospective trend adjustment provides no predictability or stability to nephrologists. These nephrology practices cannot viably operate their businesses knowing that a year after the services are provided, Medicare is going to make such a significant adjustment (i.e., move the goal posts). It discourages further investments by nephrology groups to improve care to these patients, which was the goal of the model.

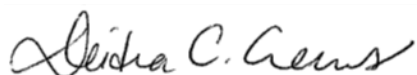
CMS acknowledged the flaws in making retroactive changes and adjusted their approach for the kidney model starting with performance year 2024 to improve model predictability. Unfortunately, they are not correcting the impact on 2022 and 2023. This leaves nephrologists with difficult choices to make up for the funding loss. They have been forced to reduce staff that provide support to patients which will hurt their ability to improve care.

Combined with the projected reduction outlined in the 2025 Medicare Advantage Advance Notice, the cumulative reduction over a two-year period will be between 11-12 percent, including eight percent from the application of the RTA alone. A two-year reduction in reimbursement exceeding 11 percent will give some current participants no choice but to disenroll from the program at the April 30, 2024, reenrollment deadline, and the enrolled patients will depart the value-based models and return to Medicare fee-for-service. We fear this will leave patients with less access to care that emphasizes slowing disease progression, decreased hospitalization through more-frequent management, and increased rates of transplantation.

For these reasons, ASN and RPA on behalf of its member nephrologists and nephrology practices request that Congress weigh in with a letter to CMS leadership, urging CMS not to apply the retrospective adjustment to the CKCC benchmark for 2022 and 2023 ahead of the April 30, 2024, deadline. ASN, RPA, and the kidney the community continue to appreciate CMS's partnership in advancing value-based models in kidney care and look forward to finding a path forward to ensure physicians are able to continue participation in the CKCC models and bring high quality care to the millions of Americans living with kidney diseases.

As always, ASN and RPA welcome the opportunity to work with Congress in its efforts to improve the quality of care provided to the nation's kidney patients, and we stand ready as a resource to Congress in its future work on use of value-based care in kidney diseases. Should you have any questions or comments regarding this correspondence please do not hesitate to contact Zach Kribs, ASN Manager of Congressional Affairs at 202-618-6991 or zkribs@asn-online.org or Rob Blaser, RPA Director of Public Policy, at 301-468-3515 or rblaser@renalmd.org.

Sincerely,



Deidra C. Crews, MD, ScM, FASN
President, ASN



Keith A. Bellovich, DO
President, RPA

About ASN

Since 1966, ASN has been leading the fight to prevent, treat, and cure kidney diseases throughout the world by educating health professionals and scientists, advancing research and innovation, communicating new knowledge and advocating for the highest quality care for patients. ASN has nearly 22,000 members representing 141 countries. For more information, visit www.asn-online.org and follow us on [Facebook](#), [X](#), [LinkedIn](#), and [Instagram](#).

About RPA

The Renal Physicians Association (RPA) is the professional organization of nephrologists whose goals are to ensure optimal care under the highest standards of medical practice for patients with kidney disease and related disorders. RPA acts as the national representative for physicians engaged in the study and management of patients with kidney disease.