



March 7, 2024

The Honorable Mike Kelly
U.S. House of Representatives
1707 Longworth House Office Building
Washington, DC 20515

The Honorable Yvette Clarke
U.S. House of Representatives
2058 Rayburn House Office Building
Washington, DC 20515

The Honorable Neal Dunn
U.S. House of Representatives
466 Cannon House Office Building
Washington, DC 20515

The Honorable Danny Davis
U.S. House of Representatives
2159 Rayburn House Office Building
Washington, DC 20515

The Honorable John Joyce
U.S. House of Representatives
152 Cannon House Office Building
Washington, DC 20515

The Honorable Raul Ruiz
U.S. House of Representatives
2342 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Kelly, Clarke, Dunn, Davis, Joyce, and Ruiz:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Health Task Force, we write to thank you for introducing H.R. 6860, the *Restore Protections for Dialysis Patients Act*, and to urge your colleagues in the House to support this important bipartisan bill. This legislation will help remedy the devastating impact that a 2022 U.S. Supreme Court ruling will have on individuals with disabilities, namely those with end-stage renal disease (ESRD), a life-threatening condition that requires kidney dialysis at least three times per week.

CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The Health Task Force works to ensure access to high quality, accessible, affordable health care for people with disabilities and complex conditions of all ages that meets their individual needs and enables them to be healthy, live as independently as possible, and participate in the community.

In June 2022, the U.S. Supreme Court weakened longstanding protections for individuals with ESRD, opening the door for health plans to circumvent “anti-differentiation” provisions by restricting dialysis benefits compared to the services covered for treatment for other chronic conditions. Without a legislative fix, more plans will continue limiting their dialysis benefits, threatening patients’ access to these services and pushing individuals with ESRD, 97% of whom rely on kidney dialysis to survive, away from private coverage and prematurely onto Medicare, which covers ESRD patients at any age. Furthermore, any reduction in access to dialysis will exacerbate longstanding health equity issues, given that the population of people with ESRD needing dialysis is disproportionately people of color. People who are Black, Latinx, Asian American, American Indian, Alaska Native, and Native Hawaiian or other Pacific Islander all have higher rates of kidney disease than white individuals.

The *Restore Protections for Dialysis Patients Act* will restore the anti-differentiation provisions of the Medicare Secondary Payer Act (MSPA) and ensure that individuals with ESRD can continue to elect coverage that is most appropriate for them and their families, which has been their right since 1981 when Congress passed the MSPA. More specifically, the bill would close the loophole created by the 2022 Supreme Court ruling that enables private plans to offer more restrictive benefits to patients who rely on dialysis services, which creates financial burdens that non-ESRD patients do not have to overcome to access appropriate care.

The bill makes it clear that a private health plan violates the MSPA protections if it “limits, restricts, or conditions” the benefits the plan provides for renal dialysis services as compared to the benefits the plan provides for other covered medical services necessary to treat other medical conditions. This includes, but is not limited to, plan provisions restricting in-network providers for outpatient dialysis services and other barriers that make it more difficult for dialysis patients to access needed care.

This legislation would send a clear message that Congress will not tolerate circumventions of protections for individuals with all disabilities and/or chronic conditions, not just end-stage renal disease.

We strongly support this critical bipartisan legislation to restore lifesaving and life-sustaining protections for dialysis patients and urge Congress to move forward with its swift passage and enactment. If you have any further questions, please contact the Health Task Force co-chairs: Caroline Bergner (cbergner@asha.org), David Machledt (machledt@healthlaw.org), Greg Robinson (grobinson@autisticadvocacy.org), and/or Michael Lewis (mlewis@aapd.com).

Sincerely,

Access Ready Inc
American Association on Health and Disability
American Council of the Blind
American Music Therapy Association
American Nurses Association
American Therapeutic Recreation Association
Autistic Self Advocacy Network
Disability Rights Education and Defense Fund (DREDF)
Family Voices
Huntington's Disease Society of America
Justice in Aging
Lakeshore Foundation
Muscular Dystrophy Association
National Association of Councils on Developmental Disabilities
National Disability Rights Network (NDRN)
National Health Law Program
The Arc of the United States