



March 29, 2022

Kate Massey
Senior Deputy Director
Behavioral and Physical Health and
Aging Services Administration
Michigan Department of Health and Human Services
333 S. Grand Avenue
Lansing, MI 48909

Re: Emergency Medicaid Coverage of Outpatient Dialysis

Dear Ms. Massey:

On behalf of the American Medical Association (AMA), the Michigan State Medical Association (MSMS), and our physician and medical student members, we are writing to urge Michigan's Medicaid program to extend emergency Medicaid coverage to scheduled outpatient dialysis for undocumented immigrants.

Like all patients with end-stage renal disease (ESRD), undocumented immigrants with kidney failure face significant health challenges. ESRD is the fifth and last stage of chronic kidney disease, at which point a patient's kidneys function at only 10 to 15 percent of their normal capacity. To survive, patients with ESRD require kidney transplantation or dialysis three times a week to replace kidney function. The expenses associated with outpatient dialysis are immense, exceeding up to \$90,000 per year.¹

Medicare, Medicaid, and private insurance plans finance the expense of dialysis for enrollees, but individuals not lawfully admitted for permanent residence or otherwise permanently residing in the United States are ineligible to enroll in public assistance, and few have the financial means to purchase unsubsidized private insurance plans. Without coverage, these patients go without standard, outpatient dialysis while their condition exacerbates and quickly becomes life threatening. With few other options for survival, these patients often seek emergency dialysis in hospital emergency departments, which are obligated to provide emergency care under the federal Emergency Medical Treatment and Labor Act (EMTALA) regardless of a patient's insurance status. This tragic cycle occurs on average six times each month for each patient.²

Not only does substandard care inflict needless suffering and endanger the lives of patients – the mortality rate for undocumented immigrants with ESRD is 14 times that of patients who receive scheduled dialysis³

¹ Katherine Rizzolo, Tessa K. Novick & Lilia Cervantes, *Dialysis Care for Undocumented Immigrants with Kidney Failure in the COVID-19 Era: Public Health Implications and Policy Recommendations*, 76 Am J Kidney Diseases 2, 255–57 (May 2020).

² Lilia Cervantes, Delphine Tuot, Rajeev Raghavan, et al., *Association of Emergency-Only vs Standard Hemodialysis with Mortality and Health Care Use Among Undocumented Immigrants with End-stage Renal Disease*, 178 JAMA Internal Med 2, 188-95 (Feb. 2018).

³ *Id.*

– but reliance on emergency dialysis comes at great expense to the state and health care system. Expenditures associated with emergency dialysis can exceed \$400,000 per patient per year, compared to \$90,000 for scheduled dialysis in the outpatient setting.⁴

Several states have successfully sought a better approach by extending emergency Medicaid coverage to outpatient dialysis for undocumented immigrants with ESRD after they have presented to the hospital.⁵ We encourage Michigan to do the same. Under federal statute, each state has discretion to determine what coverage is available to undocumented immigrants through emergency Medicaid.⁶ Although routine care is generally excluded under federal requirements, outpatient dialysis is eligible as a covered service as it is a necessary treatment for End-stage kidney disease, an emergency medical condition which, “manifest[s] itself by acute symptoms of sufficient severity [...] such that the absence of immediate medical attention could reasonably be expected to result in (A) placing the patient’s health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part.”⁷

Based on all of the above, the AMA and MSMS strongly urge the Michigan Medicaid program to extend emergency Medicaid coverage of dialysis for undocumented immigrants living in Michigan. By doing so, Michigan will improve patient outcomes, enable high-utilizing patients to receive care in lower-cost settings, and make available additional federal matching funding to offset state costs. We appreciate your attention to this important matter.

If the AMA or MSMS may be of assistance, please contact Annalia Michelman, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at annalia.michelman@ama-assn.org or Virginia K. Gibson, MSMS Deputy Chief of Staff, Payer and Employer Relations, at vgibson@msms.org.

Sincerely,



Gerald E. Harmon, MD
President
American Medical Association



Pino D. Colone, MD
President
Michigan State Medical Society

cc: Bobby Mukkamala, MD

⁴ Rizzolo, *supra* note 1.

⁵ Lilia Cervantes, William Mundo & Neil R. Powe, *The Status of Provision of Standard Outpatient Dialysis for US Undocumented Immigrants with ESKD*, 14 *Clinical J Am Soc’y Nephrology* 8, 1258-60 (Aug. 2019) (naming twelve states that provide emergency Medicaid coverage for standard outpatient dialysis: Arizona, California, Colorado, Illinois, Massachusetts, Minnesota, New York, North Carolina, Pennsylvania, Virginia, Washington, and Wisconsin).

⁶ Social Security Act § 1903(v)(2), 42 U.S.C. 1396b(v)(2).

⁷ Social Security Act § 1903(v)(3), 42 U.S.C. 1396b(v)(3).