

Dear Patients, Friends and Supporters,

Much has transpired since I wrote the previous update.

Medicare went ahead and put in place some of the most restrictive guidelines for IVIG in the country that limit the use of IVIG for immune deficiencies to only individuals who were born with an antibody deficiency problem and the 2 FDA-approved indications, chronic leukemia and HIV+ children less than 13 years old.

A group of my patients who depend upon IVIG for their health, filed a formal Medicare appeal which in view of Medicare's heartless past behavior was not surprisingly denied.

The patient's appealed to an Administrative Law Judge (ALJ) to review the case. The ALJ gave a ruling in favor of Medicare without ever formally addressing the elements of the patient's legal appeal. Simply put, the ALJ stated that Medicare officials have the right to make whatever decisions they deems are necessary to run the Medicare program, and that the burden of proof is upon the patients to prove that they have been wronged.

The ALJ failed to comment upon the salient points in the legal brief supporting the patient's claims of being target by Medicare. The legal team supporting the patients found the formal response from the ALJ rather strange in its content and scope – it seemed a rather cursory response to what is a rather complicated issue.

The patients then decided to file a formal brief in U.S. Federal Court and received a reply last week. Unfortunately, the Federal Judge determined Medicare is able to make whatever decisions it generally needs to run the Medicare program even if those decisions specifically target HIV patients for no other reason than to spend less money.

Just as a reminder, we have a copy of an e-mail that points to the fact that this entire Medicare witch hunt against me, my practice and the lives of my patients was driven by the concern that I might be spending too much money on my patients.

I find it interesting that Medicare never once evaluated any of the

HIV- patients in my practice who also require IVIG although they stated interest was to only determine if the IVIG treatments were being used in a medically appropriate manner. But even after 3 audits of my patient medical records over a 5-6 year period, Medicare and their outside medical experts failed to demonstrate that a single treatment of IVIG was not medically necessary.

Their repeated audits and review by outside experts only strengthens our position that the treatments are considered medically appropriate. So failing to show the treatments were unnecessary, Medicare decided to just change the guideline we have to operate under.

They concocted a shame survey and used the purported results as a basis for the rule change. Unfortunately, they revealed they had a draft of the new rules prior to the time they could even receive all the survey results. How can one develop new guidelines from a survey that hasn't even yet been concluded?

Medicare officials even tried to bolster the medical legitimacy of their position by citing a few scientific articles from the medical literature. Unfortunately, 2 of the lead authors of Medicare's supportive documents actually submitted in writing that Medicare's position was flawed and unfounded.

So, in spite of Medicare targeting a patient population because of money concerns, their repeated outside expert reviews showing that all the IVIG treatments I gave were considered to be medically appropriate, the development of the probably most restrictive IVIG guidelines in the country that were based upon a shame survey, their refusal to acknowledge the fact that the authors of Medicare's supportive research instead issued letters in support of the patient's continued use of IVIG ... the Judge ruled that Medicare has the right to make whatever rules it likes to run its program.

We cannot stand by while Medicare, a tax-payer funded health care entity is allowed to callously target innocent patients with strong-handed tactics.

We need your help in raising money to continue the legal battle in

the Federal Court of Appeals. Please contact [FightbackKC](#), a grass-roots organization devoted to raising money for the legal fund, and make a contribution to continue our fight for medical justice in this country!

I thank you in advance for your support.

Sincerely,

Patrick Nemechek, D.O.