



A PATIENT-CENTERED FORUM OF NATIONAL ADVOCACY ORGANIZATIONS ADDRESSING PUBLIC POLICY ISSUES IN CANCER

March 14, 2003

Thomas A. Scully
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Hubert Humphrey Building - Room 433-G
Washington, D.C. 20201

Dear Mr. Scully:

The Cancer Leadership Council (CLC), representing cancer patients, providers, and research institutions, is submitting these comments in response to the initiation of a National Coverage Analysis of oxaliplatin. We understand that this review process was commenced by the Centers for Medicare and Medicaid Services on February 12, 2003, with an expected completion date of May 13, 2003.

In the attached letter, dated December 16, 2002, the CLC outlined its objections to the coverage policy announced by the agency in the preamble to the Hospital Outpatient Prospective Payment System, 67 Federal Register 66755-56 (Nov. 1, 2002). It is the position of the CLC that the new CMS coverage policy is inconsistent with the Medicare statute, which defines "drugs" to include "any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically indicated indication," including "any use which has been approved by the Food and Drug Administration." 42 U.S.C. §1395(t)(2)(A and B).

We urge the agency to abandon its efforts to conduct a National Coverage Analysis of all new cancer drugs, as these efforts are inconsistent with the Medicare statute.

Sincerely,

Cancer Leadership Council

Alliance for Lung Cancer
American Cancer Society
American Society of Clinical Oncology
Association of American Cancer Institutes
Cancer Care, Inc.
Cancer Research and Prevention Foundation
The Children's Cause, Inc.
Coalition of National Cancer
Cooperative Groups, Inc.
Colorectal Cancer Network

International Myeloma Foundation
The Leukemia & Lymphoma Society
Lymphoma Research Foundation
Multiple Myeloma Research Foundation
National Coalition for Cancer Survivorship
National Patient Advocate Foundation
North American Brain Tumor Coalition
Pancreatic Cancer Action Network (PanCAN)
US TOO! International, Inc.
The Wellness Community
Y-ME National Breast Cancer Organization

Enclosure – December 16, 2002, letter to Thomas A. Scully

cc: The Honorable Tommy Thompson, Secretary, HHS
Mark McClellan, Commissioner, FDA
The Honorable Charles Grassley
The Honorable Max Baucus
The Honorable Deborah Pryce
The Honorable William Thomas
The Honorable Charles Rangel
The Honorable Nancy Johnson
The Honorable Pete Stark
The Honorable Billy Tauzin
The Honorable John Dingell
The Honorable Michael Bilirakis
The Honorable Sherrod Brown
Alex Azar, General Counsel, DHHS
Sheree Kanner, Associate General Counsel,
Health Care Financing Division, DHHS
Troy Daniel, Chief Counsel, FDA