EXHIBIT A

The New York Times request for correction
December 26, 2017

I've outlined below (1) a list of inaccuracies in your article about the American Kidney Fund and (2) noting where some of the reporting uses terminology that slants the tone. We respectfully ask you to share this with your editor and amend/correct the article, both online and in print.

1. *"After an application for one patient was declined, she said, she did not apply for others, because a colleague believed that only clinics that donated could refer patients."*

   We checked our records and explained to you that the application in question was not "declined." It was returned to the social worker without approval because it was incomplete—our standard process. We asked the social worker to fill in the missing information so we could process the grant request. The social worker never completed the application. If the application had been completed, and the patient qualified financially, it would have been approved. LaVarne Burton told you this same social worker submitted 66 other grant requests to AKF during the time she worked at a small clinic, and we approved 37 of them; she withdrew 14 of them for unknown reasons; the remaining 15 were declined because patients did not meet our financial criteria.

2. *"The charity's workers later demanded that the clinic make a donation that at a minimum covered the amount it had paid for the patient's premium. If he did not pay, he said he had been told, the patient risked losing the financial help from the charity for his insurance."*

   This statement is flat-out untrue, and it is surprising that you would print such an allegation without asking the person making the allegation to back it up with some kind of documentation. There is no one at the American Kidney Fund who "demands" donations. This is simply not how AKF operates. There is no earmarking of funds; a patient would never lose our financial help if their dialysis provider did not donate to AKF. We do let clinics know that their contributions are what keeps the program solvent for all patients.

   Your interview with an independent Midwestern dialysis center administrator confirmed that AKF continued to provide support for patients he referred to us even though he chose not to contribute to HIPP.

3. "*She said sometimes patients would tell her that their insurance premiums—which the Kidney Fund had agreed to pay—had not been paid that month. Ms. Bruns called the fund to find out why, she said in an interview, 'and they would say, 'Well, you haven't made your contribution this month."*

   This allegation is patently false, and if you had asked about this particular social worker we would have looked for specific information about her case(s). It is extremely surprising that The Times would run this allegation without obtaining substantiation and without asking AKF for comment on it. We searched our records after the article was published and could not find this social worker as having submitted any grants under that name. A quick public search shows she worked at a small group of clinics where we have provided, and continue

to provide, a very substantial amount of health insurance premium support to patients. AKF does not, in any way, tie its payment of insurance premiums to whether or not a provider has contributed to AKF, and our staff who award grants to patients have no knowledge of whether a particular provider has contributed to AKF. Additionally, as point of fact, once we accept a patient into our grant program, we pay their insurance premiums for the entire year, in the vast majority of cases making payments on a quarterly basis—it is not a month-by-month payment as indicated by this false allegation.

4. *An executive at the fund wrote back the same day. He was noncommittal, but attached a set of guidelines that he asked her to review. "If your company cannot make fair and equitable contributions," the guidelines read, "we respectfully request that your organization not refer patients."*

The individual at AKF who referred the social worker is not an "executive" but an employee. The Times also inaccurately placed a period at the end of the quote, when in fact the sentence continues: "...in order that we may preserve this important program for the tens of thousands of patients nationwide who are currently enrolled in HIPP to maintain their insurance coverage." A "respectful request" to help us preserve the program's solvency at a time when applications far outpaced contributions, as LaVarne explained to you, did not preclude non-contributing providers from referring patients. They continued to do so and we continued to approve grants for patients who qualified financially.

5. *"The Kidney Fund's payments are part of an unusual deal it made with the government" ("Deal" is also part of the headline)*

The choice of the word "deal" is deliberately misleading because of its implications—even your headline writer picked that word out. Advisory Opinions from the U.S. Health and Human Services Office of Inspector General are neither unusual, nor are they "deals." This statement makes it sound like AKF's Advisory Opinion is an outlier, when in fact the OIG has issued dozens of similar opinions to nonprofits. The link below lists all the IG Opinions. There are so many that it's simply wrong to call AO 97-1 unusual or a "deal." https://oig.hhs.gov/reports-and-publications/archives/advisory-opinions/

6. *"In keeping with the agency's policy, he would not confirm or deny whether the agency was investigating the group."*

You asked AKF specifically whether we had been contacted by the OIG, and we told you we had not. Saying the agency would neither confirm nor deny implies that there may be an investigation—even though we told you we had not been contacted. I even asked you why you were asking that question—if you had information to lead you to believe that there was an investigation it would have been appropriate for you to reveal that.

7. *"The suit against American Renal also says the Kidney Fund directed some donations directly back to patients."*

As LaVarne explained to you at length, AKF does not "earmark" donations to particular patients. All donations to AKF go into one funding pool, from which we provide grants to patients in need, regardless of where those patients have dialysis. She also explained that

our staff who award grants to patients have no knowledge of whether a particular provider has contributed to AKF. As the article noted—though extremely unfairly, not until the 53rd paragraph—40 percent of dialysis providers with patients in our program do not contribute to AKF.

8. "*The charity told Ms. Dickey that she would need some computer training to enroll.*"

   This statement implies that we made Ms. Dickey jump through extra hoops. In fact, LaVarne explained to you that AKF requires every renal professional who wishes to refer patients to us for assistance to first complete a training module so that they can use our online grants management system without error. This process ensures that renal professionals are able to submit applications to AKF in a complete and accurate manner, allowing us to quickly review the grant applications and issue grants to patients in need. Ms. Dickey was in no way singled out; every renal professional must complete the training module before submitting applications.

   The straightforward training takes about 30 minutes to complete, and it is provided to individuals at no charge. Once an individual has completed the training, they are registered in our grants management system and can submit grant requests on behalf of patients. This helps to ensure the integrity of the program by making sure that only authorized persons are submitting grant applications.

9. Finally, a photo caption incorrectly identified an AKF event as a "fund-raiser" when in fact that event was part of our longstanding effort to increase education and awareness of kidney disease. We were in Times Square providing free kidney disease screenings to the public.

EXHIBIT B

Our response to Sunday's New York Times article

An article in the business section of Sunday's New York Times presented a factually incorrect and unfair picture of the American Kidney Fund (AKF) and the lifesaving work that we do through our Health Insurance Premium Program (HIPP). We have reached out to the Times to request corrections on the most serious factual errors and misleading statements. In the wake of this article there are several key points that we feel are essential to emphasize:

- **Since we are a charitable organization, we do ask all providers to contribute to our program—but we never require it.**
- **We have never turned away a patient who is financially qualified to receive a grant, and we never will turn away such a patient.**
- **We never condition our issuing of grants on whether a provider has contributed to AKF, and fully 40 percent of dialysis providers with patients receiving help from AKF don't contribute anything to AKF.**
- **There is no "earmarking" of donations.**
- **HIPP has firewalls in place to protect the integrity of the program.**

We think it is important to specifically address a number of factually incorrect statements and implications in the Times article:

We do ask all providers to contribute to our program—but we never require it. The structure of HIPP is simple, and was laid out in a positive 1997 Advisory Opinion from the United States Health and Human Services Office of Inspector General. Dialysis providers may contribute to HIPP to help support the great many people in this country who are on dialysis and can't afford their health insurance premiums. If a provider chooses to donate, their donation goes into one funding pool at AKF. From that pool, our staff awards grants to patients in need on a first- come, first- served basis. Patients are free to change dialysis providers at any time. They do need to re-submit their information to AKF so that we can ensure their grant coverage continues. The grant follows the patient regardless of where they are treated. Significantly, the Advisory Opinion explains that AKF will provide grant funding to a patient even if their provider has not contributed to the program. We have always followed that requirement to the letter.

We have never turned away a patient who is financially qualified to receive a grant. It does not matter if their dialysis provider contributes to AKF—we have never turned down a patient in need. We exist to serve all dialysis patients, and have done so for close to half a century. We treat all patients the same.

We never condition our issuing of grants on whether a provider has contributed, and fully 40 percent of dialysis providers with patients receiving help from AKF don't contribute anything to AKF. We currently have HIPP grant recipients who are treated at more than 200 dialysis companies, spanning the full range of providers from small independent clinics, to mid-sized companies, hospital clinics, and the largest dialysis organizations. In determining whether to issue a grant, we look only at whether a patient meets our financial need criteria—the patient's household income may not exceed expenses by more than $600 per month. If the patient meets this criteria and if they have submitted a full and complete application, we will accept them into our program and pay their health insurance premiums for the full plan year, uninterrupted, regardless of whether their dialysis provider contributes to AKF. The Times' interview with an independent Midwestern dialysis center administrator confirmed that AKF continued to provide support for patients he referred to us even though he chose not to contribute to HIPP.

There is no "earmarking" of donations. Every contribution we receive goes into one funding pool, from which we award grants to patients in need. We help patients equally, whether or not their provider has made a donation to AKF, and providers have no way of dictating how we spend their donated funds.

HIPP has firewalls in place to protect the integrity of the program:

- When providers contribute to AKF, we have absolute control over what we do with the funds. Their donations do not follow individual patients, but instead, support the overall funding pool.
- Our patient services staff who award grants do not have access to our revenue data. They don't know whether a patient who is applying for assistance is treated at a facility that has donated to AKF.
- AKF does not report to the public the names of providers who have contributed, or how much they have contributed. This is a protection against patient inducement; it ensures that patients are not selecting a particular provider because they think doing so will result in them receiving HIPP assistance.

We require every renal professional to complete the same training module before submitting applications on behalf of patients. Every person who wishes to submit grant requests is required to complete our training module first. This uniform process protects patients by ensuring renal professionals understand our program and submit all of the necessary materials in a complete manner so that we may process grants in a timely fashion. The straightforward training takes approximately 30 minutes to complete, and it is provided to individuals at no charge. Once an individual has completed the training, they are registered in our grants management system and can submit grant requests on behalf of patients.

Of greatest concern to us in this article was the fact that several renal professionals at smaller and independent dialysis clinics told the Times they believe that AKF gives special favor to patients who are treated at the largest dialysis companies. This is simply not the case, and we want to correct the record, as well as take ownership of any way that AKF itself may have contributed to this misperception.

HIPP entered a period of financial instability about five years ago. Because providers cannot earmark donations for individual patients, and are under no obligation to contribute to AKF, we started to see a significant uptick in providers who were sending patients to us without making any contributions to the program. Providers have every right to do this, but so many providers were sending patients to us for HIPP assistance that the program was quickly reaching a point where it would become insolvent and unable to continue helping current patients—a situation that would have been disastrous for existing grant recipients who would lose their health coverage as a result.

For the next several years, we embarked on an effort to reach out to all of the providers with patients in our program. We worked intensively to educate them about the need to contribute if the program were to continue for all patients. We explained to these providers the structure of the program and our philosophy that this is a charitable operation; we think that dialysis providers have a moral obligation to support a nonprofit that is helping a patient population that is 80 percent unemployed. At the same time, regardless of whether or not these providers actually contributed to AKF, we continued to assist their patients.

After we began to educate providers about the need to support the program, many of them began to contribute to the program for the first time, and the program turned around. The program continues to run an annual deficit, but we have been able to close the funding gap enough that the program is once again stable. A stable HIPP program is absolutely critical to the 80,000 people who depend on it each year for their health coverage.

We regret that our past communications to dialysis providers in trying to educate them led some individuals to believe that we would only assist certain patients; this could not be farther from the truth. In fact, we treat all patients the same. ***We have never turned away a patient who is financially qualified to receive a grant.*** It does not matter if their dialysis provider contributes to AKF—we have never turned down a patient in need. Earlier this year, we revised our HIPP program guidelines to remove language in which we asked providers to contribute because we did not want there to be any confusion around the fact that such contributions are, in fact voluntary. We also developed a new patient-facing HIPP brochure that outlines how the program works, emphasizing the fact that patients can receive HIPP assistance no matter where they have dialysis.

We are committed to continually improving our communications with patients and renal professionals to ensure the entire renal community understands how our program works, including most importantly that our program is available to any patient in need.

EXHIBIT C

American Kidney Fund®

CONFIDENTIAL – Sent via Fax 1.800.223.8164 and Certified Mail

July 29, 2019

Joanne Chiedi
Acting Inspector General
Department of Health and Human Services
330 Independence Ave. SW
Washington, DC 20201

Dear Inspector General Chiedi:

The American Kidney Fund ("AKF") is responding to the July 23, 2019 letter signed by Congresswoman Katie Porter of California and sent to your attention. We write today to ensure that your office has an accurate set of facts on hand.

At the outset and as you know, the federal government, including your office and the U.S. Attorney's Office for the District of Massachusetts, has already been investigating AKF's Health Insurance Premium Program. AKF has fully cooperated with the government's inquiry.

We also feel compelled to respond to the allegations contained in Congresswoman Porter's letter.

The Congresswoman asked three questions. Below, we provide a response.

1. **Whether or not AKF favors providers that donate funds to AKF.**

Answer: No. In keeping with Office of the Inspector General Advisory Opinion 97-1, AKF does not in any way favor dialysis providers that donate funds to its program. We help patients with no regard to whether their dialysis provider has donated to us; in fact, more than half the providers with patients receiving our health insurance premium grants do not contribute to our program at all, and the program is frequently in a deficit because we do not have adequate funding to meet the ever-growing patient demand.

2. **Whether or not AKF terminates support for patients after they seek transplants.**

Answer: No. We support all our grant recipients for their full health plan year, which makes transplants possible for many low-income patients in the first place. Last year, AKF helped nearly 1,000 patients get transplants. Each month in 2019, we're helping about 100 new transplant patients have the procedure and then access the post-transplant care they need to resume a more normal life.

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3. **Whether or not AKF has violated anti-kickback laws in their practices.**

   Answer: No. We are proud of our ethical standards and strictly comply with federal law. AKF does not refer patients for medical services, much less any that are payable by federal programs. Patients come to AKF for assistance after they have selected their insurance plan and dialysis provider. We enforce rigorous standards of compliance and conflict of interest policies for our staff and board of trustees. Our internal firewalls ensure that dialysis providers have no say in whether AKF will assist their patients. We alone determine patient eligibility, and that eligibility is based solely on the patient's financial need, regardless of where the patient is treated and what kind of insurance they have. We also have internal firewalls so that employees responsible for approving grants have no knowledge whether a patient's facility has made voluntary contributions. Employees responsible for collecting voluntary contributions to HIPP do not make grant decisions.

There are a few more points we think are important to emphasize about our program:

Our program makes patient choice in health care possible. OIG Advisory Opinion 97-1 protects patients by ensuring they have choice in their insurance coverage and in their choice of providers, not just for dialysis but for all their complex medical needs. As the OIG concluded at the end of their legal analysis in 97-1, "[S]imply put, AKF's payment of premiums will expand, rather than limit, beneficiaries' freedom of choice." Patients apply to us for assistance with their health insurance coverage already in place. More than two-thirds of our grants are for Medicare Part B, Medigap and Medicare Advantage plans. We adamantly agree with Rep. Porter that patients should never be steered into plans that are not right for them, and that's why our charitable premium assistance program, as required by 97-1, maintains a firewall between the providers who contribute to AKF and the patients who receive our assistance.

Our grant recipients are in great need of our assistance. The tens of thousands of people we assist are low-income—with average household incomes under $30,000. More than 60% of them identify as members of racial and ethnic minority groups. Our grant population reflects a broader reality: The vast majority of people on dialysis can no longer work because of the devastating impact of this disease, and people of color are affected disproportionately by kidney failure.

We are proud of our impact—we're making more kidney transplants possible. Our programs and priorities clearly reflect that. In addition to our unmatched work helping dialysis patients have transplants and post-transplant care, we are proud to have spearheaded the introduction of living donor protection legislation in 14 states this year—and so far, seven states have enacted this AKF-supported legislation. Through our advocacy efforts in Congress we actively support H.R. 1224, the Living Donor Protection Act. We have encouraged Rep. Porter to sign on as a co-sponsor of this bill.

We appreciate your attention to the information we have provided, and we are available to respond to any questions you may have.

Sincerely,

LaVarne A. Burton
President and CEO