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The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health & Human Services
7500 Security Boulevard
Baltimore, MD 21244

**Re: Program Integrity Enhancements to the Provider Enrollment Process Final Rule
(CMS-6058-FC)**

Dear Administrator Verma:

On behalf of our physician and medical student members, the American Medical Association (AMA) appreciates the opportunity to respond to the Centers for Medicare & Medicaid Services' (CMS) request for comments on the Medicare, Medicaid, and Children's Health Insurance Programs; Program Integrity Enhancements to the Provider Enrollment Process Final Rule with comment period (CMS-6058-FC). We support CMS' decision to initially require a small subset of providers and suppliers to report their affiliations and, in future rulemaking, we urge the Agency to consider alternatives to mandating that all Medicare providers report their affiliations.

When fully implemented, the Final Rule will significantly increase the administrative burden on physicians by requiring the indefinite maintenance of records for all disclosable events for current and the previous five years' affiliations. For example, a physician would need to find out and disclose an affiliates' payment suspension from 35 years ago. This example is particularly troubling because no publicly searchable database exists for certain disclosable events. Thus, providers are left with little capability to verify with a third party whether a past or current affiliation has a disclosable event and may need to conduct background checks. We believe that it is unreasonable to expect physicians, particularly solo practitioners, to have the resources to accomplish this level of due diligence. Furthermore, checking for affiliations may take time away from providing patient care.

Requiring all providers and suppliers to report their affiliations would be a significant step backwards in the Agency's efforts to provide regulatory relief and to put patients over paperwork. While CMS' estimates of the cost-avoidance savings would be \$10-\$30 billion over five years, CMS also states that it would have only used this authority approximately 838 times or for .05% of the providers and suppliers over a five-year period. Accordingly, the AMA strongly believes that the affiliation requirements are overbroad and impose additional burdens on physicians. Rather than focusing on those providers who have demonstrated a propensity to commit fraud or abuse, the requirements inequitably affect physicians and other health care professionals who are compliant actors, resulting in unnecessary costs to the health care system.

We recognize that any changes made to the reporting requirement must be consistent with the statutory language in Social Security Act (SSA) § 1866(j)(5). As stated in the final rule, CMS does not believe it has the flexibility to limit the scope of affiliations reporting. However, the AMA recommends that CMS seek a simple legislative fix that would limit the scope of reporting while allowing CMS to go after potentially bad actors. SSA § 1866(j)(5) could be amended to read as follows:

(A) Disclosure.—The Secretary, based on the relative risk of fraud, waste, and abuse, shall determine whether a provider of medical or other items or services or supplier who submits an application for enrollment or revalidation of enrollment...shall disclose (in a form and manner and at such time as determined by the Secretary) any current or previous affiliation...”

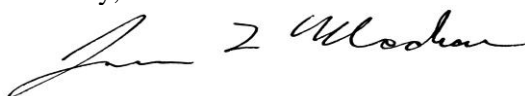
Similar to what CMS plans to do initially, it could conduct its own internal analysis to determine which providers and suppliers should be required to report their affiliations. This would be a far easier solution than requiring all providers and suppliers, the vast majority of whom are focused on providing care for their patients, to indefinitely maintain records of all disclosable events for current and the previous five years' affiliations.

If CMS decides to move forward with a policy that requires all providers and suppliers to report their affiliations despite the foregoing concerns, we recommend a staggered approach that prioritizes reporting by risk to the Medicare program of an individual provider and supplier, by the provider and supplier type, and by volume of Medicare services billed. We also believe that priority should be given to newly enrolling suppliers since they can be unknown quantities and presumably could be a previously excluded Medicare supplier that is reenrolling under a different name. Given the impact on burden, the AMA believes that the total length of time that CMS should take to complete its collection of affiliation data from the entire universe of providers and suppliers should be gradual and take at least six years. Furthermore, CMS should notify a provider or supplier about completing the disclosure of affiliation section multiple times, including a prior notice, and when submitting the application or revalidation.

The AMA is firmly committed to eliminating fraud and abuse from health care. While Congress, federal agencies, and states have made unprecedented investments in improving program integrity, significant challenges remain. Efforts to fight health care fraud or to identify areas of waste or abuse have a tangible impact on physician practices. To comply with the federal program integrity requirements, physicians can spend too much of their time on unnecessary administrative tasks rather than providing care to patients. The evolving health care system needs easier enrollment, more rational program integrity rules and, overall, fewer reporting requirements. To this end, we urge CMS to study the impact of this new affiliations disclosure requirement if it decides to move forward as described in the final rule.

Should you have any questions, please contact Jason Scull, Assistant Director, Federal Affairs at jason.scull@ama-assn.org or 202-789-4580.

Sincerely,



James L. Madara, MD