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The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Re: Administrative Simplification: Adoption of Operating Rules for Health Care Electronic Funds Transfers (EFT) and Remittance Advice Transactions; CMS-0028-IFC; RIN 0938-AR01

Dear Secretary Sebelius:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am pleased to submit the following comments in response to the interim final rule with comments (IFC) on the adoption of operating rules for health care electronic funds transfers (EFT) and electronic remittance advice (ERA) transactions. The AMA appreciates the Department of Health and Human Services' (HHS) continued support of administrative simplification as reflected in the EFT and ERA operating rules, which have the potential to reduce significant administrative burdens and allow physicians to redirect their resources toward patient care.

The AMA is very supportive of uniform standards for EFT and ERA transactions, and is pleased that this rule reflects the AMA's recommendations on EFT and ERA operating rules. However, we are disappointed that the associated acknowledgment transactions were not included in this rule. We would like to take this opportunity to underscore the need for the Health Insurance Portability and Accountability Act (HIPAA) mandated acknowledgment transactions as conveyed in the AMA's testimony to the National Committee on Vital and Health Statistics (NCVHS) on April 27, 2011, and strongly encourage HHS to issue this mandate in an upcoming rule. We also recommend the following administrative simplification solutions:

Claim Adjustment Reason Code (CARC) and Remittance Advice Remark Code (RARC) business scenarios

We appreciate HHS recognizing the importance of standardizing payer reporting of claim and remark denial reason codes by the inclusion of the Committee on Operating Rules for Information Exchange (CORE) - required Code Combinations for CORE-defined business scenarios in this IFC. The significance of this initiative is underscored by the work being done by several organizations, including the Council for Affordable Quality Healthcare (CAQH), CORE, through its operating rules as contained in this IFC, the Accredited Standards Committee (ASC) X12, through its CARC RARC

library that is a comprehensive Technical Report Type 2 (TR2) document that has a proven maintenance process and a complete list of all the combinations for all health care related industries (including Property and Casualty insurers); and the Workgroup for Electronic Data Interchange (WEDI), through its CARC and RARC white paper and business scenarios. In order to conserve staff resources, we recommend that moving forward, the ASC X12 835 Work Group that is assigned with the maintenance of the ASC X12 TR2 Health Care Claim Payment/Advice Code Usage Rules evaluate whether the CAQH CORE business scenarios are included within the TR2 usage rules or can be included in its consensus-based work, and that the development and maintenance of a comprehensive CARC RARC library be performed in a collaborative effort by all of the above-listed organizations, and updated quarterly. Due to the importance of the standardized reporting of these codes and the need to rapidly adjust to evolving business processes, we believe a collaborative effort as described above will best meet the industry's needs. **Mandating the consistent reporting of CARC and RARC codes to describe all, or at least the majority of, denials will greatly advance automation of the revenue cycle for physicians and other health care providers who regularly receive remittance advice from numerous different payers.** Standardization of reason and remark codes will increase the ability of practice management and other system modules to provide physicians with automated workflows and role-based routing capabilities, as well as increase the consistent, uniform reporting of the remittance advice information to support the Uniform Medical Claims Payer Reporting Standard Initiative. Fourteen states have already engaged in this initiative through the Post Adjudicated Claim Data Reporting (PACDR) effort.

Request for further clarification in final EFT/ERA rule

The current ASC X12N 835 instruction does not require a health care provider to receive an 835 in order to receive an EFT; it requires only that an EFT must include the reassociation trace number (TRN). **We encourage HHS to clarify in the final rule that enrolling in EFT does not require the enrollment for an ERA.** While we strongly encourage physicians to move to both EFT and ERA, many practices are reluctant to make such a major change; they will be more likely to move to EFT if they can do so on a staged basis, where they can integrate the changes in practice workflow necessary to implement EFT before they attempt to incorporate the further changes required by ERA.

We also recommend the development of a Frequently Asked Questions (FAQ) document that clarifies that the EFT and ERA standards rule requires payers to use EFT, if a physician requests payment via EFT through an EFT or other enrollment form, consistent with existing regulations (45 CFR 162.925 (a)(1)), as well as a clarification that physicians and other health care providers are not required to enroll to receive ERAs, in order to accept EFT. It is important to keep in mind that payers' deviations from the applicable regulatory requirements are problematic for physician practices. Payers should be encouraged to explicitly ensure that their EFT program complies with all applicable laws and regulations, including prompt payment laws and restrictions on offsets and overpayment recoveries.

The AMA is committed to continuing its efforts to educate physicians on the EFT process and encourage its adoption. The AMA's EFT Toolkit explains how the EFT transaction works and walks physicians through the process of adopting it in their practices. However, while we fully support the EFT process and encourage physicians to enroll in EFT, it is also important to acknowledge that there are costs and administrative burdens associated with accepting EFTs' in a physician's office, which include the need to set up new bank account(s), obtain and complete payer enrollment forms that differ payer to payer and are not always readily accessible, seek legal advice to ensure each payer enrollment form does not negate protections placed in banking laws or state managed care laws or add high transaction fees, etc. These costs can be significant, particularly due to significant variations

between the health plans/payers. For this reason, we continue to oppose any mandate that physicians use EFT or ERA; adoption will occur as soon as the return on investment (ROI) supports it. We believe this IFC will go a long way toward increasing that ROI for physician practices.

Concern with payer practices to only offer credit card payments

We are concerned that the IFC does not require health plans to comply with these standards pursuant to a health care provider's request. In addition, the AMA has received complaints from physicians that some health plans are only offering a credit card payment. For example, some health plans (including the Veterans Administration) have started using commercial credit cards with enormously high transaction costs (as much as 5 percent and some include a financial incentive back to the payer) as a way to pay physicians. We believe that this practice is administratively inefficient and creates significant financial burdens on physicians. The HIPAA rules require payers to send and receive HIPAA mandated transactions, and if a physician wants to be paid via EFT, then the payer should be required to comply with the physician's request. Health plans and other payers should not be permitted to mandate receipt of payment via credit cards in these situations. **If a physician wants to use an EFT CCD+ format, then the health plan should be required to comply with the physician's request.**

Conclusion

Thank you for the opportunity to provide comments on the adoption of standards for EFT and ERA. We look forward to working with you and other key stakeholders to bring about meaningful administrative simplification for physicians, their patients, and the health care industry as a whole. Should you have any questions, please contact Mari Savickis, Assistant Director of Federal Affairs, at (202) 789-7414 or mari.savickis@ama-assn.org.

Sincerely,

James L. Madara, MD