



Michael D. Maves, MD, MBA, Executive Vice President, CEO

May 6, 2010

Peter Budetti, MD, JD
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Dr. Budetti:

On behalf of the physician and medical student members of the American Medical Association (AMA), in advance of our meeting this Friday we would like to outline our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) proposed Interim Final Rule (IFR) that was released last Friday concerning *Medicare and Medicaid Programs; Changes in Provider and Supplier Enrollment, Ordering and Referring and Documentation Requirements; and Changes in Provider Agreements* [CMS-600-IFC]. The AMA will submit comments on all three provisions of the proposed IFR at a later time, but would like to discuss with you on Friday our serious concerns with the proposed requirement that all physicians who order and refer covered items and services for Medicare beneficiaries must be enrolled in Medicare and have their enrollment information in the Internet-based Provider Enrollment, Chain and Ownership System (PECOS) by July 1, 2010.

Over the past few years, physicians have experienced tremendous problems with CMS's enrollment program. These difficulties have led to serious cash flow disruptions for many practices. The operational issues will be further complicated in light of the broad outreach that has been conducted by the AMA, CMS, and other major health care stakeholders messaging that the deadline will be January 3, 2011. CMS has discretion to limit the scope of providers impacted by the July 1, 2010, deadline, and has exceeded the scope of what the Patient Protection and Affordable Care Act of 2010 (PPACA) requires by July 1, 2010.

We agree that the relevant provisions of PPACA require physicians who write orders for durable medical equipment (DME) and provide eligibility certifications for home health services (HHA) to be enrolled in the Medicare program by July 1, 2010. **However, expanding the scope of providers who must enroll by the July date will create a**

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significant challenge for CMS to conduct additional outreach to educate impacted providers of the changed deadline and to timely process enrollments. The proposed IFR goes further by requiring all physicians enrolled in the Medicare program to also have their information in PECOS by July 1, 2010. This is not required by section 6405 of PPACA, which simply states that physicians are to be enrolled in the Medicare program. The additional requirement that all physicians must have their information in PECOS, particularly by July 1, 2010, is not required by the statute and creates needless pressure in the already overtaxed enrollment process. This will impact beneficiaries and those medical practices already struggling to implement the numerous program integrity provisions contained in the new health system reform law with little to no guidance from CMS.

As we noted above, section 6405 explicitly requires that all physicians who order DME or certify eligibility for HHA services are required to be enrolled by July 1, 2010, but PPACA confers CMS with the discretion to apply this requirement to other items and services and the timing in which the agency will do so. **While we do not dispute that CMS has the discretion to apply this requirement to other items or services, we urge CMS to exercise its discretion as to timing.** Specifically, we strongly urge CMS to: 1) restrict the July 1 date solely to those named in the law, DMEPOS and home health, and permit physicians who order lab, imaging services, or specialist services to enroll/re-enroll by January 3, 2011; and 2) not deny any claims for referrals or orders for imaging services, laboratory, or specialist services prior to January 2011 solely on the basis that the referring/ordering physician is not yet in PECOS.

As we have communicated to you previously, CMS changed the deadline repeatedly because the outreach had been limited in scope and the capacity to process enrollment applications was not adequate. We would like to discuss what resources will be deployed to conduct extensive outreach and to build up contractor and agency capacity to rapidly and efficiently process enrollment applications. We would like to note that the July 1 deadline outlined in the proposed IFR coincides with a broad array of changes and guidance related to enrollment, compliance, claims, and payment that CMS will be required by law to implement. We would like to discuss whether a strategic plan has been developed on the roll-out of these items so that small physician practices, where 80 percent of out-patient visits will occur over the next 12 months, are not overwhelmed.

We appreciate the opportunity to bring these concerns to your attention. Please contact Carol Vargo at 202-789-7494 or carol.vargo@ama-assn.org should you have any questions.

Sincerely,



Michael D. Maves, MD, MBA