



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

November 3, 2006

The Honorable Charles B. Rangel
Ranking Member
Committee on Ways and Means
2354 Rayburn House Office Bldg.
Washington, DC 20515

Dear Congressman Rangel:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to request your assistance in overturning the statutory mandate for the Centers for Medicare and Medicaid Services (CMS) to continue the services of the Recovery Audit Contractors' (RAC) pilot projects in Florida, New York, and California. The RAC pilot projects were mandated by Section 306 of the Medicare Modernization Act and have been underway for over a year. The pilot projects employ RACs—private companies that contract with CMS—to conduct analyses and audits of reimbursement claims. The RAC demonstration program was implemented to work with physicians and hospitals to identify and recoup overpayments. While we are aware that Medicare is in serious financial crisis and we acknowledge the need for accurate financial allocations, we believe that the RAC program has been unduly burdensome on physicians and has failed to establish or communicate meaningful approaches to remedying common billing mistakes.

The AMA fully supports accurate billing practices and is very mindful of the need to educate physicians about Medicare's policies regarding billing issues. We believe, however, that the RAC program is not the proper means to achieve these goals. The program has been an enormous burden on the affected physicians and has done nothing to further the worthy goal of eradicating frequent billing mistakes. We strongly believe that any problem with over and/or underpayment of Medicare claims could be resolved more effectively through outreach and education, rather than the aggressive and onerous tactics employed by the RACs.

Not only are the RAC methods draconian, time-consuming, and devoid of efforts to improve the Medicare system, they are based upon perverse incentives. RACs are not compensated by CMS. Instead, they receive a share of the funds recovered from alleged overpayments,

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otherwise known as “contingency fees.” Thus, they are, in effect, bounty hunters. At best, this type of compensation system lends itself to the possibility of questionable audit results, with “borderline” claims being pursued and investigated. At worst, it forces physicians, whose time is better spent treating patients than reviewing old documents and pursuing appeals, to simply yield to unproven RAC claims.

Challenging or appealing RAC claims requires physicians to reallocate valuable resources to provide data that could be as many as four years old. The RACs typically require physicians to collect and send myriad documents including physician orders and progress notes, diagnostic test results, history, operative reports, and certificates of medical necessity, even when the requested documentation is housed in a multitude of different locations or facilities. In addition to losing countless patient hours, this program is redundant. Other audit processes such as the Comprehensive Error Rate Testing Program (CERT) and random audits are already being utilized by CMS to identify and collect overpayments.

The RAC pilot projects are fatally flawed. The pilot projects have been incredibly arduous and have failed to address the need to educate and communicate with physicians in order to avoid billing mistakes. Thus, we believe that the program should be discontinued, and any plans to expand it to other states or make it permanent in the states in which it currently exists should be withdrawn.

Sincerely,

A handwritten signature in cursive script, reading "Mike Maves", written in black ink on a white background. The signature is positioned to the left of a vertical red line.

Michael D. Maves, MD, MBA