

Congress of the United States  
Washington, DC 20515

August 4, 2014

Marilyn B. Tavenner, MHA, BSN, RN  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
P.O. Box 8013  
Baltimore, MD 21244-8013

Dear Administrator Tavenner:

We are writing to follow up on our April 17 letter regarding improving the transparency and stakeholder input for changes made to physician payments through the rule-making process. In particular, we raised concerns that the current processes lack transparency and deprive health care providers and the recipients of their services the opportunity to fairly and meaningfully participate in the Agency's rulemaking.

We commend CMS for its proposed reform to limit changes in the final rule to issues discussed in the proposed rule, as this will lead to greater transparency, deliberation and a more thoughtful public policy. CMS acknowledged these concerns and made significant progress towards increased transparency by recommending that changes to service code definitions and valuations be included in Physician Fee Schedule (PFS) *proposed* rules, rather than final rules. Specifically, in the CY 2015 PFS Proposed Rule, CMS states, "we are proposing to modify our process to make all changes in the work and MP RVUs and the direct PE inputs for new, revised and potentially misvalued services under the PFS by proposing the changes in the proposed rule, beginning with the PFS proposed rule for CY 2016." In making this recommendation, CMS highlights previous rulemaking in which comments provided subsequent to promulgation of a PFS final rule (and establishment of final values for certain codes) would have been useful if the process had allowed for such comment in response to the proposed rule instead.

Among other benefits, this proposal will ensure that providers have a sufficient opportunity to review and provide public comment on new values and price inputs for services *before* new rates are established as final. However, we cannot understand why CMS has chosen to delay this important policy reform until the CY 2016 PFS rulemaking cycle. There is no reason to delay these important reforms and subject a certain providers to the same opaqueness and lack of transparency in the 2015 PFS Final Rule under a process CMS acknowledges to be flawed. ***As such, we urge CMS to implement its proposed transparency changes immediately and for the CY 2015 PFS rulemaking cycle.*** This would ensure equitable treatment and transparency for *all* providers within the Physician Fee Schedule immediately.

Again, we thank you for your consideration in this regard and urge the agency to adopt its recommended PFS transparency policy immediately.

Sincerely,

  
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