

Congress of the United States
Washington, DC 20515

June 28, 2013

The Honorable John Boehner
Speaker
H-232, The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
H-204, the Capitol
Washington, DC 20515

Dear Speaker Boehner and Leader Pelosi:

As we work together to strengthen Medicare and reform physician payments, we would like to express our strong support for preserving the “in-office ancillary services exception” (IOASE) to federal physician self-referral regulations (the “Stark” law). This provision permits physician practices to provide critical services including radiation therapy, diagnostic imaging, pathology, and physical therapy in an integrated and coordinated fashion within their respective practices. President Obama’s budget proposes to repeal this provision for radiation, advanced imaging, and physical therapy, which would force more patients to receive these services in hospital settings, thereby reducing access and increasing costs.

Ancillary services are used on a daily basis by physician practices to provide comprehensive services to patients. Integration of these medical services facilitates the development of coordinated clinical pathways, improves communication between specialists, offers better quality control of ancillary services, and enhances data collection – all of which can improve patient care while maximizing economic efficiencies. Limiting the IOASE would present significant barriers to appropriate screenings and treatments, increase inefficiencies, and make care less accessible. MedPAC, in its June 2011 report to Congress, recommended against limiting the Stark law exception for ancillary services, citing potential “unintended consequences, such as inhibiting the development of organizations that integrate and coordinate care within a physician practice.”

Eliminating the IOASE, unfortunately, will most likely centralize the delivery of health care around a few dominant health hospital systems, which in turn will reduce consumer choice and ultimately drive up cost. Over the past several years, hospitals have consolidated their market control in many communities. For example, the American College of Cardiology reports that since 2007, the number of hospital-employed cardiologists has more than tripled, while the number in private practice has fallen 23 percent. For many procedures, Medicare reimbursement to hospitals is much greater (in some cases two to three times the amount) than that to physician offices for precisely the same service – typically hospitals *mandate* that employed physicians use hospital services. This trend will only increase with the rollout of hospital-based Accountable Care Organizations.

Repeal of the IOASE would literally make it illegal for physician practices to integrate these ancillary services. Government’s role should not be to dictate how physicians deliver care through legislative fiat. This will only increase costs to Medicare.

What is most perplexing about this proposal is that the utilization of these ancillary services has actually decreased recently. Below are examples of data regarding utilization of certain ancillary services:

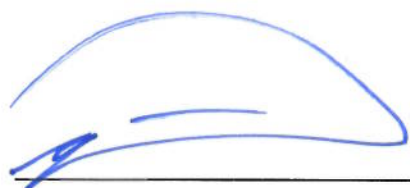
- Growth in the volume of imaging services, especially advanced imaging, has seen a sharp decline since 2007, with no growth per enrollee in 2011.
- The volume of advanced imaging services has slowed significantly, from 13.4 percent growth in 2006 to 5.4 percent in 2007, with an estimated growth of only 2 percent in 2011.
- More than three-quarters of advanced medical imaging is now provided in the hospital, where costs are, by statute, equal or greater than the physician office. Prohibiting integrated physician practices from providing these services would result in much of this care being provided in the more expensive hospital setting.
- Data from the Medicare 100 percent data sample demonstrated that overall, there was a 5.9 percent *decrease* in utilization of Intensity Modulated Radiation Therapy between 2011 and 2012 in the physician office setting. And due to simultaneous reimbursement changes, Medicare expenditures for IMRT in the physician's office actually decreased by 16.9 percent, or over \$128 million.
- From 2007 to 2011, despite a nearly 160 percent increase in the number of urologists in practices with ownership of IMRT (468 to 1202), IMRT utilization to treat prostate cancer during this period increased by only 2.2 percent.
- A recent study on in-house pathology utilization of prostate biopsies that reviewed over 4.2 million specimens between 2005 and 2011 demonstrated no significant difference in both positive biopsy rate and utilization trends between physician owned laboratories and a national reference lab. Therefore, there can be no savings from prohibiting physician incorporation of these services.
- MedPAC analysis of 2011 claims data showed that spending for outpatient therapy services (physical, occupational, and speech-language pathology) furnished in physician and non-physician private practice comprised only 4 percent of total therapy spending. Medicare expenditures for outpatient therapy in physician offices actually *decreased* from 9 percent of total outpatient therapy spending in 2002 to just 4 percent in 2011.

We hope you will agree to reject this unwise policy that will legislatively undermine the important competitive counterbalance provided by integrated physician groups that provide ancillary services, which we believe is essential to America's patients and taxpayers alike.

Sincerely,


 Daniel P. Roe M.D.

 Tim Murphy

 TN-4

Rene Allen

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Bill Andy

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John Fleming
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