

March 16, 2015

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Harry Reid
Minority Leader
U.S. Senate
S-221, The Capitol
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Reid:

As you work towards repeal and replacement of the Medicare Sustainable Growth Rate (SGR) methodology for physician payments, the Alliance for Integrity in Medicare (AIM) encourages you to include provisions removing anatomic pathology, advanced diagnostic imaging, radiation therapy, and physical therapy from the in-office ancillary services (IOAS) exception to the physician self-referral law. In addition to improving patient care and reducing inappropriate utilization of health care services, enactment of this policy will generate substantial savings to the Medicare program which, in turn, can be used to finance SGR reform. In fact, the Congressional Budget Office just issued an updated score for this proposal of \$3.5 billion in savings over ten years.

On behalf of our members and the patients that they serve, the AIM Coalition is concerned that expanded use of the IOAS exception has created a significant loophole allowing for inappropriate overuse of tests and treatments for certain services. Physicians have increased their ordering and utilization of complex ancillary services where they have a financial interest with little or no clinical benefit to patients. In addition to questions surrounding their clinical appropriateness, these tests and treatments can be expensive, adding significant costs to the health care system, as well as potentially causing harm to patients.

The intent of the IOAS exception was to allow for the provision of certain non-complex services, such as an x-ray or simple blood test, needed to help inform the diagnosis and treatment of a patient during an initial office visit. Although the self-referral law was designed to prevent physicians from basing clinical decisions on financial gain, there is substantial evidence that the IOAS exception often is exploited by physicians to provide services that cannot be completed within the time frame of a patient's initial visit and, in some cases, at the time of any patient visit. Anatomic pathology, radiation therapy, advanced diagnostic imaging, and physical therapy are the clearest examples of services open to abuse through the current IOAS exception, incidences of which have been confirmed by peer-reviewed academic research, the Government Accountability Office (GAO), and the Office of the Health and Human Services Inspector General.

Consistently, GAO and independent health services researchers found overutilization and increased costs to Medicare associated with physicians who self-refer these services. These findings are especially noticeable when analyzing the same physician's referral patterns before and after undertaking self-referral, in comparison to those providers who do not self-refer. For example, the GAO found the following:

- Self-referring providers made an estimated 918,000 more referrals for anatomic pathology services than those who did not self-refer at a cost of \$69 million to the Medicare program in 2010.
- Intensity Modulated Radiation Therapy (IMRT) services performed on Medicare patients by self-referring physician groups increased by approximately \$138 million, as compared to a \$91 million decrease in the non-self-referral group from 2006 to 2010. During the same time period,

IMRT utilization among self-referring physician groups increased by 456 percent, while the number of IMRT services performed by non-self-referrers decreased by 5 percent.

- Self-referred magnetic resonance imaging (MRI) services for Medicare patients increased around 84 percent compared to 12 percent for non-self-referring MRI services in 2010. GAO estimated the 400,000 additional referrals cost the Medicare program \$100 million in 2010.

Moreover, the GAO found overutilization of these services increases the risk of medical complications to Medicare patients. Further, the patients receiving tests and treatments at self-referring physician practices oftentimes are not aware of the financial interests their physicians have in these services.

Therefore, the AIM Coalition strongly supports inclusion of H.R. 2914, the *Promoting Integrity in Medicare Act* (H.R. 2914), within the bipartisan, bicameral SGR proposal. Specifically, this legislation will remove only anatomic pathology, radiation therapy, advanced diagnostic imaging, and physical therapy from the IOAS exception to the self-referral law. IOAS reform also has been endorsed by AARP, the Bipartisan Policy Center, the Moment of Truth Project, and featured in the President's FY 2014, FY 2015, and FY 2016 Budgets. Members of the physician community even called for this reform in the *Journal of the American Medical Association* on January 12, 2015.

Every day thousands of highly specialized and independent practitioners provide these complex medical services, which are not self-referred or driven by financial incentives, in a coordinated and integrated way. These providers review complex patient cases with ordering clinicians, leverage the latest information technologies, and provide comprehensive care to the patient. We support the integration and coordination of care that provides a payment system that rewards the value of care given to patients, rather than the volume of services delivered. Therefore, we propose the IOAS exception be limited to truly integrated and coordinated multispecialty groups practices consistent with this endeavor.

In closing, we strongly encourage you to consider including the public policy changes mentioned in H.R. 2914, which would eliminate the perverse financial incentives allowed by the IOAS exception, as you permanently address the SGR. The removal of anatomic pathology, radiation therapy, advanced diagnostic imaging, and physical therapy from this exception will protect Medicare beneficiaries and strengthen the financial health of the Medicare program.

Sincerely,

The Alliance for Integrity in Medicare

American Clinical Laboratory Association
American College of Radiology
American Physical Therapy Association
American Society for Clinical Pathology
American Society for Radiation Oncology
Association for Quality Imaging
College of American Pathologists
Radiology Business Management Association