May 23, 2014

Marilyn Tavenner, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: April 9, 2014 Release of Physician 2012 Medicare Claims Data

Dear Administrator Tavenner:

On behalf of the American College of Physicians (ACP), I would like to share our reactions, comments, and recommendations regarding the Centers of Medicare and Medicaid Services' (CMS) recent release to the public of selected physician-identifiable 2012 Medicare Part B claims data and CMS' general efforts to increase healthcare transparency.

ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 137,000 internal medicine physicians (internists), related subspecialists, and medical students committed to advancing the science and practice of medicine. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

On April 9, 2014 CMS released to the public finalized 2012 fee-for-service (FFS) Medicare Physician Fee Schedule (Part B) payment information linked to the National Provider Identifier (NPI) of more than 880,000 health care professionals in all 50 states who collectively received $77 billion in payments. This is the first time specific information regarding Medicare payments provided to identifiable physicians and other healthcare professionals has been made public. CMS made public the following information for each paid-for service—as identified by its Healthcare Common Procedure Coding System (HCPCS) code:

- Number of times service was provided
- Average submitted charges
- Average allowed amount
- Average Medicare payment
- Number of unique beneficiaries treated

ACP has extensive policy in support of transparency throughout the healthcare system. We believe that increased access to relevant healthcare information will promote quality, efficiency, and improve the ability of beneficiaries and all healthcare consumers to make better, more-informed decisions. This policy is most clearly articulated in the 2010 policy paper, "Healthcare Transparency --- Focus on Price and Clinical Performance Information" available at http://www.acponline.org/advocacy/current_policy_papers/transparency.pdf. The policy paper,

besides reflecting the College's general support of healthcare transparency by all stakeholders, articulates a number of important criteria that released (transparent) data should satisfy. These criteria include that the data should be:

- reliable and valid;
- transparent in its development;
- open to prior review and appeal by the physicians and other healthcare professionals;
- minimally burdensome to the reporting physician and other healthcare professionals;
- comprehensible and useful to its intended audience including a clear statement of its limitations.

Based on this policy, while the College supports CMS' April 9, 2014 decision to publicly release physician-identifiable 2012 selected claims data, we have concerns regarding the process and format of this release. More specifically, the College makes the following recommendations to CMS for future similar data releases:

1. **Physicians and other healthcare professionals must have an opportunity to review the data for accuracy prior to its public release.**

   Our members, upon reviewing the recently released data, have reported a number of inaccuracies. These have ranged from misspelling of names, to errors in location, to discrepancies concerning the actual data reported (e.g. number of unique beneficiaries). Many of these inaccuracies could have easily been avoided through a process allowing the identified physician or other healthcare professional a time-limited period to review the data prior to its public release. We strongly recommend the inclusion of such a "review and correction" period for future, similar data releases. Regarding this current data release, we strongly recommend the implementation of a process for the reporting of inaccuracies to CMS and a means of correcting documented errors on the public site.

2. **The data should be provided in a more user-friendly format at the time of its initial release.**

   Unfortunately, the April 9th data release was in the form of a raw data file set downloadable as a:

   - Tab delimited file format requiring importation into database or statistical software, or
   - Microsoft Excel format.

   These were not user-friendly formats; making it difficult for interested parties to examine the released data. While several mass media entities (e.g. New York Times, Washington Post) did provide more user-friendly portals to review the information–this approach should have been used by CMS at the time of the initial release. Therefore, ACP strongly

recommends that such a user-friendly approach be used at the outset for all future data releases.

ACP does commend CMS for releasing, on April 23, 2014, a much more user-friendly "Medicare Physician and Other Supplier Look-up Tool" and an "Interactive Physician and Other Supplier Dataset"—both of these resources are a positive step toward making the released physician claims data more accessible. The College suggests that CMS could further expand these resources to include a frequently asked questions section with link to other useful websites and references.

3. **The data should be coupled with clear, concise information regarding its context, appropriate use, and limitations.**

The April 9, 2014 data release was most deficient in this particular area. The information was released without providing adequate explanation of its meaning, an appropriate explanation of the data's context, and its multiple limitations; providing fertile ground for inaccurate perceptions and false conclusions by beneficiaries, media representatives, and other interested parties regarding individual physicians and other healthcare professions.

The initial release did provide information on the meaning of each data element and how it was developed—but this information was not clearly highlighted or easily obtained. Furthermore, while the preface to the release did include a brief paragraph highlighting some of the data limitations (e.g. "not intended to indicate quality…..not risk adjusted"), the limitations listed were not inclusive (e.g. not differentiating between group NPIs and individual NPIs; not differentiating between reimbursement of a physician for a drug or medical equipment expense versus a service payment), and were lacking in explanation and clarity.

We are specifically concerned that CMS has suggested that, "the data to be released would assist the public's understanding of Medicare fraud, waste, and abuse" (CMS letter to AMA, http://www.modernhealthcare.com/article/20140402/NEWS/304029939) when the data by itself cannot reliably be considered an indicator of fraud and abuse by any particular physician or group of physicians (a determination that can only be made through a legal process with due process). While ACP strongly supports efforts to prevent and sanction fraud and abuse, the fact that a physician may have received higher Medicare payments than other physicians does not mean that the physician engaged in fraud and abuse. If CMS is going to promote the tool as a way for patients/consumers to identify fraud and abuse, it also needs to clearly state the limitations, context, and potential inaccuracies in the data, and also explain that higher payments to a physician does not necessarily suggest that the physician has engaged in fraudulent or abusive billings.

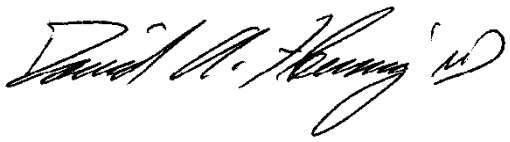
Again, the College was pleased that the April 23 release of the new "Look-up" tool provided a more inclusive list of data limitations, and these limitations were presented in a much more noticeable format. Nonetheless, there remained only minimal explanation

regarding these limitations to reduce inaccurate perceptions and false conclusions, no discussion regarding the most relevant uses of this data, and no mention of the limited relevance of this data to beneficiaries. We strongly recommend that these deficiencies be corrected regarding this current release and for releases planned in the future—the College is pleased to offer it expertise to help in this area.

In summary, the College supports CMS' goal of increasing healthcare transparency. CMS' efforts, if done correctly, can help facilitate the delivery of higher quality and more efficient care, not only within Medicare, but throughout the entire healthcare system. We further believe that CMS needs to focus on improving on how data are released—with a particular emphasis on ensuring that the information is accurate, easily accessible, and, most importantly, comprehensible and useful to its intended audience, including a clear statement of its limitations and most relevant uses.

Please contact Neil Kirschner, Ph.D. at nkirschner@acponline.org or 202 261-4535 if you have any questions regarding this letter or would like to request collaboration with the College to address the stated issues of concern.

Respectfully,



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