

December 13, 2001

The Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Baucus:

The undersigned national health and medical organizations are writing to express our strong support for Senate passage of meaningful Medicare regulatory relief legislation this year. Last week the House of Representatives passed unanimously, with 408 votes, H.R. 3391, the "Medicare Regulatory and Contracting Reform Act of 2001."

H.R. 3391 and S. 1738, the "Medicare Appeals, Regulatory, and Contracting Improvement Act of 2001," are the products of considerable negotiation and discussion with the HHS Inspector General, Centers for Medicare and Medicaid Services, and the Department of Justice aimed at ensuring that the legislation would afford meaningful reforms without compromising the government's ability to investigate and pursue true Medicare fraud. We deeply appreciate the recent introduction of S. 1738 by the senior members of the Senate Committee on Finance.

**It is critical that reforms be enacted this year in order to deliver long overdue regulatory relief for America's health care providers. Without immediate action, we remain concerned that implementation of the measure's meaningful reforms could be delayed. In the interest of time, we therefore urge the Senate to adopt H.R. 3391 as passed by the House of Representatives and send the measure to the President before Congress completes its work for the year.**

H.R. 3391, as passed by the House, contains several additional provisions that effectively reform Medicare's management. A major advantage of H.R. 3391 is that it addresses nearly all our concerns about lack of fairness and due process in the tactics used by Medicare contractors to investigate and audit physicians, providers, and suppliers. For example, after conducting an audit, carriers and intermediaries would have to explain their initial audit findings and the steps that physicians and providers must take to correct any problems. In addition, contractors would be limited in their use of extrapolation to develop projected overpayment amounts after auditing a valid sample of claims. Extrapolation from sampled claims to all of the other claims submitted by physicians and providers has greatly magnified overpayment demands.

Carrier and intermediary demands that alleged overpayments be repaid in 30 days also can impose tremendous burdens on practices and providers. Under H.R. 3391, carriers and fiscal intermediaries would have to offer physicians and providers repayment plans of up to three years if overpayment demands exceed 10% of their annual Medicare revenues, or up to five years in exceptional circumstances.

For physicians, the policy cited most often as the worst Medicare burden are the documentation requirements for evaluation and management services. Another important advantage of the House bill is that, if new documentation guidelines are developed, H.R. 3391 would require that pilot tests be conducted before nationwide implementation. The bill would also require that any new guidelines increase clinically pertinent documentation and decrease irrelevant documentation.

We deeply appreciate your leadership and the Senate Finance Committee's efforts over the past nine months that have brought us to this point. The Senate is now positioned to advance Medicare regulatory reforms. We stand ready to furnish any assistance that our organizations can provide to the Committee and the full Senate to help secure enactment of effective reforms this year.

Sincerely,

Advanced Medical Technology Association (AdvaMed)  
American Academy of Allergy, Asthma and Immunology  
American Academy of Child and Adolescent Psychiatry  
American Academy of Dermatology Association  
American Academy of Facial Plastic & Reconstructive Surgery  
American Academy of Family Physicians  
American Academy of Neurology  
American Academy of Ophthalmology  
American Academy of Otolaryngic Allergy  
American Academy of Otolaryngology – Head and Neck Surgery  
American Academy of Sleep Medicine  
American Association for Thoracic Surgery  
American Association for Vascular Surgery  
American Association of Clinical Endocrinologists  
American Association of Clinical Urologists  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Allergy, Asthma and Immunology  
American College of Cardiology  
American College of Chest Physicians  
American College of Emergency Physicians  
American College of Nuclear Physicians  
American College of Obstetricians and Gynecologists  
American College of Osteopathic Emergency Physicians  
American College of Osteopathic Family Physicians  
American College of Osteopathic Surgeons  
American College of Physicians-American Society of Internal Medicine  
American College of Radiology  
American College of Rheumatology  
American College of Surgeons  
American Gastroenterological Association  
American Geriatrics Society  
American Medical Association  
American Medical Directors Association  
American Medical Group Association  
American Osteopathic Association  
American Psychiatric Association  
American Society for Gastrointestinal Endoscopy  
American Society for Reproductive Medicine  
American Society for Therapeutic Radiology and Oncology  
American Society of Anesthesiologists  
American Society of Cataract and Refractive Surgery  
American Society of Clinical Oncology

American Society of Clinical Pathologists  
American Society of General Surgeons  
American Society of Plastic Surgeons  
American Thoracic Society  
American Urological Association  
Association of American Medical Colleges  
College of American Pathologists  
Congress of Neurological Surgeons  
Emergency Department Practice Management Association  
Infectious Diseases Society of America  
Joint Council of Allergy, Asthma and Immunology  
Medical Group Management Association  
National Association for Home Care  
National Association for Medical Direction of Respiratory Care  
National Medical Association  
North American Society of Pacing and Electrophysiology  
Renal Physicians Association  
Society for Cardiac Angiography and Interventions  
Society for Vascular Surgery  
Society of Cardiovascular & Interventional Radiology  
Society of Critical Care Medicine  
Society of General Internal Medicine  
Society of Nuclear Medicine  
Society of Thoracic Surgeons

CC: Majority Committee Members