

June 29, 2001

Thomas A. Scully
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Dear Mr. Scully:

The undersigned medical organizations strongly urge that the Centers for Medicare and Medicaid Services (CMS) take the next year to re-examine the imposition on physicians of burdensome evaluation and management (E&M) documentation guidelines, as well as its commitment to the development of "clinical examples." We believe this recommendation is consistent with the Bush Administration's desire to bring about regulatory reform. Such a decision would also be consistent with the previous reconsideration of other Medicare regulations as well as your decision to spend the next year re-examining the approach to risk adjustment. A decision to reconsider this burden would be extraordinarily well-received by the physician community and would demonstrate that the name change of the organization is, as you intend, consistent with a new approach to work collaboratively with physicians and provider organizations to ensure access and quality of care to Medicare beneficiaries.

Our organizations and CMS have spent considerable time and effort attempting to determine what constitutes adequate documentation guidelines, yet little progress has resulted after more than seven years of effort. The development of clinical examples by CMS and its contractor, Aspen Systems, is the most recent example of good intentions gone awry. As is evidenced below, the proposed clinical examples are seriously flawed and need to be scrapped. Today, more than sixty percent of physicians continue to regard Medicare's documentation guidelines as the major paperwork burden originating from CMS. The clinical examples development effort will only increase that burden.

The concerns of our organizations were recently echoed in actions taken by the AMA House of Delegates on June 21 and by CMS' own Practicing Physician Advisory Council at its June 25 meeting. Both groups urged CMS to extend the comment period on the clinical examples and to re-examine the need for further development of these examples. We believe it is critical that coding and documentation of physicians' E&M services be based firmly on CPT rather than on variations of CPT coding and guidelines.

Specifically, the undersigned organizations found, from a comprehensive review of the clinical examples developed by Aspen, that there is a multitude of problems that need to be addressed. The problems include:

- The clinical examples are inconsistent, especially in medical decision making, and not relevant to typical physician-patient encounters;
- The use of inappropriate clinical terminology;
- The examples are focused on the middle level of each;
- The examples are not relevant to the typical physician encounters because they exclude the major patient groups the specialty is mostly likely to be treating, *e.g.*, glaucoma patients for ophthalmologists;
- The clinical examples should include the patient's chief complaint or reason the patient is seeing the physician (the presenting problem);
- Use of clinical examples will result in physicians being required to provide more documentation;

- Reliance on the proposed clinical examples will result in an increase in downcoding by Medicare carriers;
- There are no clinical examples for children;
- Women's health issues are trivialized through the downcoding of high-risk, complex services;
- Reliance on clinical examples without taking prior patient history into account will result in the carrier reviewing a particular service in isolation;
- Many groups not included in the original scope of this effort are validly concerned that they will be inappropriately crosswalked to other specialties regardless of major variances in practice;
- Surgical specialties were asked to review clinical examples that are clearly follow-up surgical care that would never be billed separately;
- There is still little clear understanding of how the carriers will use the clinical examples, *e.g.*, how carriers will decide whether an examination is, to use the new terminology, a multi-system or single-system physical examination; and
- Not all specialty societies were given the opportunity to comment on the clinical examples or the opportunity to offer clinical examples specific to their specialty.

Initial CMS reaction to physician concerns with the clinical examples has indicated a reluctance to modify the current work schedule or contract with Aspen. This letter also asks for your intervention to seek a more creative approach and response to physician concerns.

Because of these many major concerns about the utility and effectiveness of the clinical examples, several of the specialties believe it would be more appropriate to develop their own examples, rather than use those suggested by the CMS contractor. Before we go to that effort, however, we think CMS should undertake a thorough reassessment of the value and need for documentation guidelines/clinical examples. After that review, should it be determined that such a need exists, AMA policy calls for us to work with specialties, along with the CPT Editorial Panel to develop guidelines that accurately reflect appropriate levels of patient care.

Your favorable consideration of this proposal is requested.

Sincerely,

American Academy of Dermatology Association
 American Academy of Facial Plastic and Reconstructive Surgery
 American Academy of Family Physicians
 American Academy of Neurology
 American Academy of Ophthalmology
 American Academy of Otolaryngology-Head and Neck Surgery
 American Association of Clinical Endocrinologists
 American Association of Neurological Surgeons
 American Association of Orthopaedic Surgeons
 American College of Chest Physicians
 American College of Emergency 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 Association
 American Medical Association

American Psychiatric Association
American Society for Gastrointestinal Endoscopy
American Society of Anesthesiologists
American Society of Cataract and Refractive Surgery
American Society of General Surgeons
American Society of Hematology
American Society of Plastic Surgeons
American Thoracic Society
American Urological Association
Congress of Neurological Surgeons
Infectious Disease Society of America
Joint Council of Allergy, Asthma and Immunology
Medical Group Management Association
National Association for Medical Direction of Respiratory Care
National Medical Association
Renal Physicians Association
Society for Critical Care Medicine
Society of Cardiovascular and Interventional Radiology
Society of General Internal Medicine
Society of Thoracic Surgeons

cc: Paul Rudolf, MD
Rubin King Shaw
Thomas Grissom
Marjorie Kanoff, MD
Barbara Paul, MD
Helen Blumen, MD
Tracy Gordy, MD