Dear Ms. DeParle:

As President of the American College of Physicians-American Society of Internal Medicine (ACP-ASIM), the nation’s largest medical specialty society with more than 110,000 members who practice internal medicine and its subspecialties, I am writing to express the ACP-ASIM’s concern with the proposed Peer Review Organization (PRO) sixth scope of work. This proposal is outlined as an attachment to a document dated October 29, 1998 from Henry Koehler, Director of HCFA’s Office of Clinical Standards and Quality.

Specifically, the ACP-ASIM fears that if implemented as proposed, the scope of work could undermine the cooperative and constructive relationship that has developed over the past few years between PROs and the health care community.

Payment Error Prevention Program (PEPP)

The College is particularly concerned about the proposed Payment Error Prevention Program (PEPP) which is designed to reduce payment errors for inpatient prospective payment services under Medicare. While reducing payment errors is an appropriate policy goal, HCFA must take care to separate this activity from the quality improvement roles of the PROs.

Great progress has been made in recent years to improve the relationship between the medical community and the PROs. The ACP-ASIM has supported HCFA’s efforts, started in the fourth Scope of Work, to encourage the PROs to move away from a punitive approach that addressed individual errors, to a methodology that uses education to help physicians improve care.

This process has worked. Over the past several years, the PRO program has improved its relationship with physicians and has used quality improvement methods to improve care for Medicare beneficiaries and reduce program costs. The College is pleased that in many instances, the physician community has identified areas for improvement and worked with the local PRO to improve care. This is evidence that the PROs’ quality improvement approach has succeeded in fostering cooperation between themselves and the provider community.

HCFA’s own documents show that this cooperative relationship has led to genuine improvements in care for Medicare beneficiaries and cost savings to the program. Evidence of successful programs is abundant. PRO quality improvement projects have: prevented or postponed the onset of lower extremity amputations for hundreds of patients with diabetes; increased the number of elderly Medicare
beneficiaries who have been immunized for the flu; reduced the number of deaths from community acquired pneumonia; and reduced the number of heart attacks and strokes in Medicare beneficiaries.

What is troubling about the PEPP proposal is that it makes PROs responsible for tracking payment errors and requires the PROs to deny payment for individual cases where there is questionable justification for payment. It also calls on the PROs to refer these cases to fiscal intermediaries and law enforcement agencies. The language of the proposal says in relevant part “Where the PRO finds occurrences of unnecessary services, fraud, waste or abuse, appropriate review and referrals to the Fiscal Intermediaries and/or the appropriate law enforcement agencies shall be made.”

In addition, since the proposal provides PROs with financial incentives to identify payment errors, it effectively establishes a “bounty system”. According to HCFA documents, PROs will receive a bonus payment equal to .05% of its base payment for every 1% relative decrease in the payment error rate it achieves during its contract period.

The combination of these policies will undermine the cooperative relationship that has developed between the PROs and the medical community.

Moreover, the basis upon which this program is justified is controversial and will be viewed unfavorably by the medical community. According to HCFA, the justification for PEPP is the 1997 audit by the Office of Inspector General (OIG) which found approximately $20 billion in improper payments in Medicare. As you may know, this audit has been criticized as inaccurate. In addition, this audit report has been used as evidence that fraud within the medical community is rampant, even though it said that the OIG could not identify what percentage of the $20 billion was due to fraud.

Using the OIG Medicare audit as the foundation for your policy will be viewed with suspicion by physicians across the country and seen as evidence that quality improvement is “taking a back seat” to fraud and abuse investigations in the PRO program.

Consequently, the ACP-ASIM urges HCFA to redesign this program. The PROs should not be required to identify individual cases of improper payment for referral to law enforcement agencies or fiscal intermediaries. Rather, they should use the same quality improvement techniques that have succeeded to improve clinical care to decrease the number of payment errors. For example, if a PRO identifies a pattern of improper payment, it could work with local physicians and others to design a project to figure out why mistakes are being made, and an educational (e.g., non-punitive) approach to help physicians and eliminate errors. Of course, if improvements are not achieved, or if the error meets the statutory definition of “gross and flagrant”, then the PRO should have the option of referring the matter to an enforcement agency or fiscal intermediary.
Quality Improvement Projects

The proposed scope of work creates extensive responsibilities for the PROs in the area of quality improvement. Specifically, PROs will be required to perform "National Quality Improvement Projects", "Local Quality Improvement Projects", and "Quality Improvement Projects in Conjunction with Medicare+Choice Plans".

The ACP-ASIM believes that these quality improvement projects have the potential to improve care and reduce costs. However, one must remember that similar projects are already being implemented by health care organizations, health plans, medical groups, and others in response to federal regulations or national accrediting body requirements. Each time an organization implements a quality improvement project, it imposes requirements on physicians such as chart reviews and data gathering.

Thus, the ACP-ASIM recommends that as the PROs undertake these activities, they do everything possible to ensure that these projects are done in a manner that imposes the fewest burdens as possible on participating physicians. One option would be to mandate use of a uniform system for record abstraction, data collection, and PRO performance evaluation. This would reduce the burden on physicians as well as facilitating the identification of “best practices” of individual PROs.

The College is also concerned with the methodology to be used to evaluate the PROs' success in improving quality. For example, the proposal indicates that although a PRO contract runs for 36 months, the evaluation of a PRO's performance will occur after 28 months. In addition, it notes that the PRO will be evaluated based on its record of improvement as measured against a baseline that was developed at the start of the contract period. PROs that perform well will not only have their contracts renewed, but are eligible to receive a bonus payment.

If a PRO improves its performance between months 28 and 36, though, this will not affect its contract renewal or its eligibility for a bonus payment. Rather, it will simply be included in the baseline for the next contract cycle. This, in turn, means it will be harder to achieve sufficient improvement in that cycle. Therefore, after its performance is measured in the 28th month, PROs will have no incentive to continue improving until after the next contract period begins – at least 8 months later. The ACP-ASIM urges HCFA to modify its evaluation method to remedy this problem.

Moreover, the incentive payments to PROs are only applicable to their performance in the six national projects. This will likely mean that the PROs will focus their overstretched staffing and resources on the six national projects, to the detriment of local and Medicare+Choice quality improvement initiatives. The ACP-ASIM urges HCFA to provide incentive payments for PROs participating in all the mandated quality improvement projects.
Convening Coordinating Quality Improvement Efforts

The PROs have the ability to convene all parties in a community – physicians, hospitals, health plans and patients – to set priorities and goals for quality improvement and develop strategies to achieve these goals. These collaborative efforts have great potential for success. Using this technique, the PRO can integrate quality improvement efforts across payers, coordinate data requirements, and reduce duplication.

The ACP-ASIM recommends that HCFA provide financial incentives for PROs to perform this convening and coordinating function.

Conclusion

The ACP-ASIM is pleased with the development of the PRO program. PROs have successfully worked with physicians to identify areas for improvement and design solutions to reach those goals. The key to success has been the educational approach used by PROs and the collaborative relationship that has developed between the PROs and the medical community. As HCFA develops the sixth scope of work, it must take care that PROs are not given responsibilities that will jeopardize this relationship.

Thank you for the opportunity to comment on this important matter.

Sincerely,

Harold C. Sox, Jr.
President