AMERICAN ACADEMY OF FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

October 19, 2016

Carolyn W. Colvin, Acting Commissioner of Social Security
Office of Regulations and Reports Clearance
Social Security Administration
3100 West High Rise Building
6401 Security Boulevard
Baltimore, Maryland 21235–6401

Dear Acting Commissioner Colvin:

On behalf of the American Academy of Family Physicians (AAFP), which represents 124,900 family physicians and medical students across the country, I am responding to the proposed rule titled, "Revisions to Rules Regarding the Evaluation of Medical Evidence" as published by the Social Security Administration (SSA) in the September 9, 2016, *Federal Register*. In this regulation, SSA proposes several revisions to conform with the requirements of the *Bipartisan Budget Act of 2015 (BBA).*

Regarding revisions to the SSA list of medical sources who can be can be a medical consultant (MC) and psychological consultant (PC), the AAFP appreciates that SSA is proposing to seek a psychiatrist or psychologist to complete an individual's residual functional capacity (RFC) assessment for mental impairments. However, we are concerned that the proposed rule's frequently used phrase, "every reasonable effort," is too broad and we encourage SSA to provide more specifics in the final rule. Due to the shortage of psychiatrists and psychologists and as more individuals seek mental health care, the demand for this care will outweigh the supply of psychiatrists or qualified psychologists.

The AAFP appreciates that this proposed rule includes a discussion of the difficulty in determining a treating source's status due to the changing nature of primary care. As part of this discussion, SSA seeks input on no longer giving a specific weight to medical opinions and prior administrative findings. Instead, the SSA would consider the persuasiveness of medical opinions and prior administrative findings. We applaud the SSA for discussing challenges expressed by family physicians with patients who sought care with multiple healthcare providers in various settings. This uncoordinated approach, especially for those individuals with chronic conditions, is an example of fragmented care which results in higher healthcare costs. This is in direct contrast to the national effort for high quality, cost effective care.

Family physicians, through education and residency training, possess distinct abilities, skills, and knowledge that qualify them to provide continuing and comprehensive medical care, health maintenance, and preventive services to each member of the family regardless of sex, age, or type of problem, be it biological, behavioral, or social. Family physicians, because of their background and interactions with the family, are best qualified to serve as each patient's advocate in all health-related matters, including the appropriate use of consultants, health services, and community resources.

11400 Tomahawk Creek Parkway | Leawood, KS 66211-2680 | (800) 274-2237

As patients are determined to be Medicare eligible through the SSA process for disability, these beneficiaries may be assigned to an Accountable Care Organization (ACO). Family physicians participating in an ACO have expressed concern when these patients seek care outside of the ACO. This fragmentation of healthcare decreases care quality for patients and undermines the patient-centered medical home. In an August 19 letter to CMS, the AAFP called for a massive educational campaign to beneficiaries of the importance of selecting a "main doctor." If this suggestion is taken by CMS and other payers, it would greatly assist the SSA in the collection of medical evidence necessary to process a claim.

Within this proposed rule's section on discussing the responsibility for evidence, SSA discusses that before a determination is made that the patient is disabled, the SSA will:

- Develop a complete medical history for at least the 12 months preceding the month in which the application is filed unless there is reason that the disability began less than 12 months before a claim had been filed.
- Make every reasonable effort to get the medical records, meaning that SSA will make an initial request for evidence from a medical source and at any time between 10 and 20 calendar days after the initial request, if the evidence has not been received, SSA will make one follow-up request to obtain the medical information necessary to make a determination.

While the AAFP appreciates the additional effort to request information from a medical source, we are concerned that the time frame of 10-20 calendar days after the initial request is not a reasonable amount of time for a medical practice to gather and release the requested information. Instead we recommend a more reasonable time frame be 20-25 calendar days. A more reasonable timeline may also reduce SSA's cost of a consultative examination.

We appreciate the opportunity to comment on this proposed rule. For any questions you might have, please contact Karen S. Breitkreutz, RN BSN, Delivery System Strategist, at (913) 906-6000, ext.4162 or kbreitkreutz@aafp.org.

Sincerely,

Wanda D. Filer, MD, MBA, FAAFP
Board Chair

CC:
Dan O'Brien, Office of Disability Policy