AMERICAN ACADEMY OF FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

May 20, 2015

Andy Slavitt, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Administrator Slavitt:

On behalf of the American Academy of Family Physicians (AAFP), which represents 120,900 family physicians and medical students nationwide, I am writing to reiterate a request for changes in both the 1995 and 1997 *CMS Documentation Guidelines for Evaluation and Management (E/M) Services* as well as the *Medicare Program Integrity Manual*. The changes would be designed to ensure that the final entire medical information entered by the team at the time of a patient's visit could be considered in determining and supporting the submitted code. The AAFP originally made this request last year, and we have yet to receive a response.

The 1995 and 1997 *Documentation Guidelines for E/M Services* state, in part, "The ROS [Review of Systems] and/or PFSH [Past, Family, and Social History] may be recorded by ancillary staff or on a form completed by the patient. To document that the physician reviewed the information, there must be a notation supplementing or confirming the information recorded by others." Historically, Medicare contractors and others have interpreted this guideline to mean that the physician or other qualified health care professional under whose name the service is to be billed must document the other parts of the E/M service, including the history of present illness, exam, and medical decision making, although the 1997 guidelines also recognize that ancillary staff may measure and record vital signs.

In a similar vein, section 3.3.2.1.1(B) of chapter 3 of the *Medicare Program Integrity Manual* instructs review contractors to consider all medical record entries made by physicians and "Licensed/Certified Medical Professionals," which CMS defines as medical professionals licensed or certified to practice in the state in which services are rendered. It is not clear that this definition includes ancillary staff.

Unfortunately, these 20-year-old guidelines and instructions are out of date and they conflict with the team-based care that is an essential element of current medical practice and which CMS (along with the AAFP) is otherwise encouraging. In today's medical practice, information gathered and generated not only by ancillary staff members but also by care coordinators becomes part of the visit note and medical record. We believe that all the elements of team-based care that are part of the patient's office visit, if reviewed by and finalized by a physician or other qualified health care professional, should be considered part of the E/M service and supporting documentation. Accordingly, we respectfully request that CMS revise its *Documentation Guidelines for E/M Services*, so the guideline that reads, "The ROS and/or PFSH may be recorded by ancillary staff or on a form completed by the patient. To document that the physician reviewed

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the information, there must be a notation supplementing or confirming the information recorded by others," be changed to read:

> *The medical record may be recorded by any staff involved in the patient's care or by the patient, as appropriate. To document that the physician reviewed the information, there must be a notation supplementing or confirming the information recorded by others.*

Additionally, we request that section 3.3.2.1.1(B) of chapter 3 of the *Medicare Program Integrity Manual* be revised to instruct review contractors to consider all medical record entries made by physicians and "other staff involved in the care of the patient, along with the patients themselves." With these changes, we believe Medicare's guidelines and instructions would more appropriately reflect the kind of team-based care practiced and advocated by CMS today.

Thank you for your time and consideration of this request. If you or your staff has any questions about this matter, please contact Robert Bennett, Federal Regulatory Manager, at the AAFP at rbennett@aafp.org or at (800) 274-2237, extension 2522. We look forward to your response.

Sincerely,

Reid B. Blackwelder, MD, FAAFP
Board Chair