

April 10, 2006

Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW, #3-4G
Washington, DC 20201

Dear Dr. McClellan:

The undersigned medical societies are thankful that the Centers for Medicare and Medicaid Services (CMS) has pushed back the implementation date from July 1, 2006 to no earlier than January 1, 2007 for the Medically Unbelievable Edits (MUEs) program and has delayed the review period for responding to the proposed edits. We support CMS' efforts to reduce the Medicare error rate and believe that the appropriate use of unit edits to correct claims errors is a reasonable approach. However, we have serious concerns that CMS has underestimated the scope of review, the importance of accuracy and the need for detailed rationale and data behind these edits.

First, the file containing the MUEs involves over 10,000, CPT codes and HCPCS Level II codes. This is not merely a review of new and revised CPT codes for a new version of the National Correct Coding Initiative (NCCI). The scope of review itself is a very lengthy and involved process. CMS has outlined a new dual review period strategy that calls for the first set of comments to be due on June 19, 2006 followed by another deadline in the fall. We strongly believe that this review process will negatively affect the MUE program. This staggered approach will discourage a thorough review of all codes. **We request CMS re-institute a single review process that will allow us to systematically review the edits once and share this feedback. We strongly urge CMS to institute a single deadline of September 15, 2006.**

Second, CMS rationale and frequency data used in developing the prospective units of service still have not been disclosed. The continued lack of transparency leads to a more time consuming review process as organized medicine must speculate on the basis for which each edit was established. Initial comments from the specialty societies on the MUEs suggest that the units assigned contradict current well established, evidence-based medical practice. Moreover, errors in the MUE file could have the unintended effect of hurting patients by setting clinically inappropriate limits. In addition, although we appreciate CMS' explanation that the intent of the MUEs is to identify obvious billing mistakes rather than set Medicare payment policy, without any data to substantiate the edits, we are left to speculate on this. **We therefore urge CMS to make available the rationale and frequency data behind the MUEs.**

Third, there is no system in place for using modifiers or for appealing an edit. These are two important aspects of the MUE effort that are essential in making this a workable edit

system. **We urge CMS to allow the use of modifiers for services that may be clinical outliers. We also urge CMS to develop an appeals process.**

The undersigned medical societies are prepared to undertake the MUE review. We are therefore requesting CMS: 1) institute a single review process to review the edits (ending on September 15, 2006); 2) make available the rationale and frequency data behind each edit; 3) establish modifiers; 4) and establish an appeals process.

We thank CMS for their consideration to this matter and look forward to working closely on refining a program that works well for physicians, patients and CMS.

Sincerely,

Academy of Pharmaceutical Physicians and Investigators
Albert Einstein College of Medicine
American Academy of Child and Adolescent Psychiatry
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 Otolaryngic Allergy
American Academy of Otolaryngology – Head and Neck Surgery
American Academy of Pain Medicine
American Academy of Pediatrics
American Academy of Physician Assistants
American Association for Geriatric Psychiatry
American Association for Respiratory Care
American Association of Clinical Endocrinologists
American Association of Neurological Surgeons
American Association of Neuromuscular and Electrodiagnostic Medicine
American Association of Oral and Maxillofacial Surgeons
American Association of Orthopaedic Surgeons
American Chiropractic Association
American Clinical Neurophysiology Society
American College of Cardiology
American College of Chest Physicians
American College of Emergency Physicians
American College of Gastroenterology
American College of Medical Genetics
American College of Mohs Micrographic Surgery and Cutaneous Oncology
American College of Obstetricians and Gynecologists
American College of Occupational and Environmental Medicine
American College of Osteopathic Family Physicians
American College of Osteopathic Internists
American College of Physicians

Americna College of Preventive Medicine
American College of Radiation Oncology
American College of Radiology
American College of Rheumatology
American College of Surgeons
American Dietetic Association
American Gastroenterological Association
American Geriatrics Society
American Medical Association
American Medical Directors Association
American Medical Group Association
American Occupational Therapy Association
American Optometric Association
American Osteopathic Association
American Physical Therapy Association
American Podiatric Medical Association
American Psychiatric Association
American Psychological Association
American Society for Aesthetic Plastic Surgery
American Society for Dermatologic Surgery
American Society for Gastrointestinal Endoscopy
American Society for Reproductive Medicine
American Society for Surgery of the Hand
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 Colon and Rectal Surgeons
American Society of General Surgeons
American Society of Hematology
American Society of Nephrology
American Society of Neuroimaging
American Society of Neuroradiology
American Society of Nuclear Cardiology
American Society of Ophthalmic Plastic and Reconstructive Surgery
American Society of Plastic Surgeons
American Speech-Language-Hearing Association
American Thoracic Society
Association of American Medical Colleges
Congress of Neurological Surgeons
Contact Lens Association of Ophthalmologists
Emergency Department Practice Management Association
Heart Rhythm Society
Infectious Diseases Society of America
International Spine Intervention Society
Joint Council of Allergy, Asthma and Immunology

Medical Group Management Association
National Association of Social Workers
National Association of Spine Specialists
Radiological Society of North America
Renal Physicians Association
Society for Cardiovascular Angiography and Interventions
Society for Investigative Dermatology
Society of American Gastrointestinal and Endoscopic Surgeons
Society of Interventional Radiology
Society of Nuclear Medicine
Society of Thoracic Surgeons
The Endocrine Society
University of Arkansas for Medical Sciences