



August 7, 2014

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Marilyn Tavenner, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1612-P  
P.O. Box 8013  
Baltimore, MD 21244-1850

RE: Reports of payments or other transfers of value to covered recipients within the 2015 proposed Medicare physician fee schedule

Dear Administrator Tavenner:

Each year, research results in new treatment pathways, medications, diagnostic procedures, and clinical guidelines. Physicians must stay up to date to provide the most appropriate care to their patients. Communication between physicians, device manufacturers, and pharmaceutical companies is critical for physicians to remain current with the latest research and provide state-of-the-art care their patients deserve.

On behalf of the Pennsylvania Academy of Family Physicians (PAFP), which represents more than 5,500 family physicians, residents, and medical students, we are writing in response to Section III.I, Reports of Payments or Other Transfers of Value to Covered Recipients, within the "Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015" proposed rule as published in the July 11, 2014 *Federal Register*.

The PAFP disagrees with the CMS proposal to delete the "Continuing Education Exclusion" found in 42 CFR 403.904(g) in its entirety. CMS suggests that the deletion of Section 403.904(g) would remove an unintended redundancy with the exclusion in 42 CFR 403.904(i)(1). Although there may be overlap between the two sections, they are not the same. Section 403.904(i)(1) excludes "indirect payments" or other transfers of value where the applicable manufacturer is "unaware" of the covered recipient's identity during the reporting year and for two quarters thereafter. Stakeholders have struggled to interpret Section 403.904(i)(1) and CMS's guidance has not provided clarity.

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The parameters of the CME exemption in Section 403.904(g) are clear. Stakeholders have relied upon them in their planning, developing, offering, attending and documenting CME programs over the past eighteen months since the final rule was published.

Along with preserving the CME exemption, the PAFP also urges CMS to reduce the administrative burden and potential over-reporting of indirect transfers of value through excluding CME activities where the industry donor is unaware of speakers and other participants before committing to fund the activity. By doing so, we believe this would accomplish CMS's goal of expanding the range of educational events that are appropriately exempt from reporting while eliminating the potential for negatively impacting CME.

The PAFP urges CMS to stay the course at this early stage in the implementation of Open Payments and to avoid discarding the CME exemption, which is important to the education of our health care providers and, consequently, the health of the public.

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Spotts MD". The signature is written in a cursive, flowing style.

Douglas A. Spotts, MD  
President