

January 6, 2005

Mr. Glenn M. Hackbarth, J.D.  
Chairman  
Medicare Payment Advisory Commission  
601 New Jersey Avenue, NW, Suite 9000  
Washington, DC 20001

Dear Mr. Hackbarth:

The undersigned organizations are writing to you regarding MedPAC's proposed recommendations on diagnostic imaging utilization. It is our understanding from MedPAC's most recent public meeting that the Commission is considering recommending mandatory accreditation and physician credentialing as a condition of Medicare payment for imaging services; additional coding edits and application of the multiple procedure discount to diagnostic imaging services; and certain modifications of physician self-referral laws, informally known as Stark II. While we understand MedPAC's concern about the pace of utilization increases in certain diagnostic imaging procedures, we urge the Commission to frame any recommendations carefully to ensure that they are not interpreted in a manner likely to impede patient access to high quality diagnostic physician imaging services.

Furthermore, we urge the Commission to assure that any statistics cited in the final report regarding utilization growth of imaging services do not overstate actual growth due to shifts in site of service. According to MedPAC's December 2004 report on physician volume, about 18 percent of the overall 9.4 percent growth in diagnostic imaging services is attributable to shifts in site of service, rather than new growth. If these shifts in site of service are appropriately accounted for, the actual overall growth rate for imaging would be about 7.7 percent by our estimates.<sup>1</sup> Because the draft recommendations now before the Commission are being proposed as a response to growth in imaging services, we believe it is important not to overstate that growth.

We appreciate the Commission's interest in ensuring that the chapter on diagnostic imaging utilization be placed in the context of the extraordinary contributions of diagnostic imaging to physicians' ability to diagnose and treat illness quickly and accurately. We do not believe that the issue of whether or to what extent the increase in diagnostic imaging utilization is medically unnecessary has been fully explored by the Commission, and, therefore, we believe any recommendation that would arbitrarily limit diagnostic imaging utilization would not be appropriate.

We also applaud MedPAC for recognizing that the competence of a physician to interpret a diagnostic image cannot be determined based exclusively on the physician's specialty and for including this observation in its recommendations. We encourage the Commission to exercise a similar impartiality with respect to its discussion of accreditation by refraining from specifically naming any particular accreditation organization. In this regard, we note that the accreditation programs associated with certain organizations explicitly or implicitly authorize only radiologists to perform or interpret imaging studies, which we believe is inconsistent with MedPAC's intent. To the extent that specific accreditation organizations are named, we urge that a number of such organizations be included, to avoid any implication that MedPAC endorses any particular set of standards.

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<sup>1</sup> Medicare Payment Advisory Commission; December 2004. *Report to Congress: Growth in the Volume of Physician Services.*

However, we remain troubled that the Commission's proposed recommendation on interpreting physicians' competence appears to assume consensus in the physician community regarding the training, experience, and other requirements for interpreting physicians in each modality – a consensus that simply does not exist. In fact, standards of practice are always evolving and it is not uncommon for there to be disagreement regarding the appropriate training and experience standards among different specialties or even within a particular specialty. We have serious doubt about whether sufficient credible data exists to determine which standards are appropriate. In addition, we do not believe it is practicable or prudent to place CMS in the position of arbiter in this arena, nor do we believe that it is appropriately within the purview of the federal government to review each interpreting physician's particular credentials, as the draft recommendation would imply.

We understand that MedPAC staff anticipates that individual interpreting physicians' competence may be evaluated by accrediting organizations as part of the accreditation process for diagnostic imaging facilities. If in fact this is what the Commission anticipates, we strongly suggest that the final report consolidate the recommendation on interpreting physician qualifications with the recommendation on accreditation and simply require that, as part of a rigorous accreditation process, the accreditation organization should assure that these imaging facilities have in place appropriate standards for all physicians who provide imaging interpretation, regardless of specialty designation. In fact, we believe that any accreditation organization that precludes a physician from interpreting a diagnostic imaging study based solely on specialty designation should not be recognized by CMS for the purpose of approving diagnostic imaging facilities for payment.

In fact, we are struck that the proposed recommendations really fall into two categories – those that relate to quality (e.g. accreditation and physician competence), and those relating to utilization control (e.g. coding edits, multiple procedure discounts and modifications of the physician self-referral law). We urge MedPAC to ensure that the final report clearly distinguishes between these two sets of recommendations.

More specifically, we urge the Commission to refrain from implying or attributing any specific cost savings to its recommendations mandating accreditation and physician qualifications. MedPAC staff has called to our attention two studies that purport to document cost savings as the result of credentialing and facility survey programs. However, the first such study appears to have achieved savings primarily by limiting the specialties of the physicians authorized to bill for x-ray services, an option that the Commission has (quite appropriately) rejected.<sup>2</sup> The second study appears to have achieved cost savings primarily by de-credentialing podiatrists and chiropractors, who have limited authority to bill Medicare for diagnostic imaging services in any event.

Finally, we urge MedPAC to ensure that the report does not raise issues of diagnostic imaging safety in the absence of credible and impartial studies documenting that medical imaging raises serious public safety concerns. We appreciate the Commissioners' reluctance to recommend a broad public education initiative on the dangers of overexposure to medical radiation, as set forth in the initial draft recommendations, and urge similar restraint in the text of the report itself. The only data cited on this issue in prior MedPAC reports is an unpublished survey conducted in Utah by a company that sells radiology benefits management services to insurers and authored by a radiologist who is one of the most

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<sup>2</sup> See "The Effect of Imaging Guidelines on the Number and Quality of Outpatient Radiographic Examinations." H. Moskowitz, J. Sunshine, D. Grossman, L. Adams, L. Gelin. *AJR* 2000; 175:9-15. The bias in this study is self-evident. The study, whose authors included American College of Radiology staff, included surveys of only five radiology practices: Surveys were then discontinued based on the conclusion that radiology practices were clearly of high quality and did not need to be inspected, while 100 of the highest volume non-radiology practices were subject to survey.

vocal opponents of in-office diagnostic imaging.<sup>3</sup> Various aspects of medical imaging equipment safety are already regulated by the Nuclear Regulatory Commission, the Food and Drug Administration, the Occupational Health and Safety Administration and by state authorities. In the absence of credible, published, peer reviewed literature documenting safety concerns arising from the use or misuse of diagnostic imaging, we urge MedPAC to refrain from including text in the report that may inappropriately lead Congress to the conclusion that these agencies are not performing their designated functions adequately or that may discourage patients from obtaining medically necessary diagnostic testing.

We appreciate the opportunity to provide these comments on MedPAC's draft recommendations and hope that these observations are helpful in drafting the final report. We encourage MedPAC to provide a broad and balanced group of affected organizations an opportunity to review the chapter on imaging utilization before final publication.

Sincerely,

American Academy of Family Physicians  
American Academy of Neurology  
American Academy of Ophthalmology  
American Association of Clinical Endocrinologists  
American Association of Orthopaedic Surgeons  
American Association of Neurological Surgeons  
American College of Cardiology  
American College of Emergency Physicians  
American College of Obstetricians and Gynecologists  
American College of Physicians  
American College of Surgeons  
American Gastroenterological Association  
American Medical Association  
American Medical Group Association  
American Society for Gastrointestinal Endoscopy  
American Society of Breast Surgeons  
American Society of Cataract and Refractive Surgery  
American Society of Echocardiography  
American Society of Neuroimaging  
American Society of Nuclear Cardiology  
American Urological Association  
Congress of Neurological Surgeons  
Heart Rhythm Society  
Medical Group Management Association  
Society for Cardiovascular Angiography and Interventions  
Society for Cardiovascular Magnetic Resonance  
Society for Maternal-Fetal Medicine

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<sup>3</sup> In light of the numerous problems that various groups have raised with respect to the HealthHelp study, we would certainly hope that the Commission will refrain from citing the thoroughly discredited Utah data set forth in its prior report.

