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August 27, 2009

The Honorable Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Ms. Frizzera:

The American Academy of Emergency Medicine (hereinafter AAEM or “the Academy”) appreciates the opportunity to comment on the proposed rule on Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B for CY 2010 (74 FR 33519). We specifically addressed the proposed payment and policy changes for physician services to Medicare beneficiaries in CY 2010.

AAEM supports and welcomes many of the changes in the CMS proposal that improve the quality of care and health of our patients including proposals for consultation codes, payment rates for Initial Preventive Physical Examinations (IPPE), and adjustments for high malpractice liability expenses. However, the Academy strongly opposes the proposed 21% cut in Medicare physician payments. As emergency physicians acting on the front line of medicine, we see this cut as potentially disastrous for not only Medicare patients, but all patients who require emergency care.

Emergency departments (EDs) and emergency physicians across the country are already under intense pressure financially. On average, emergency physicians in this country provide in excess of 20% uncompensated care as a result of complying with EMTALA. We have the additional burden of an increasing number of undocumented aliens, who we must care for under EMTALA, yet we receive no compensation for their care.

Currently, many physicians who practice outside of emergency medicine are unwilling to see Medicare and Medicaid patients, resulting in a further exacerbation of the problem. Since EDs are the final safety net in this country for a fragmented health care system in which there are currently in excess of 45 million uninsured, emergency physicians also provide care to a disproportionately high percentage of Medicare and Medicaid patients. Further cuts in Medicare physician payment will accentuate this deficit and result in increased diversion of Medicare patients to EDs for evaluation and management. These diversions will further destabilize the extremely tenuous crowding that already exists in the vast majority of hospital emergency departments in the United States.

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The majority of EDs are overburdened with an ever increasing number of patient visits, with a simultaneous reduction in the number of EDs over the last 10 years. This situation led to a marked increase in patient waiting times, adverse outcomes, and a general diminution of care for all patients seeking acute care.

AAEM applauds cost control in medicine. We feel strongly that we can accomplish cost control through (1) tort reform, (2) controlling defensive medicine largely related to groundless litigation, and (3) by insurance reform. Collectively, these factors contribute markedly to excessive health care costs. In addition, modification of existing physician payment rules so that emergency physicians receive compensation in relation to their application of cognitive and clinical skills, as opposed to payment for ordering ancillary tests, would likely lead to tremendous cost-saving for the entire health care system.

The American Academy of Emergency Medicine, a national specialty society representing more than 5,000 board certified emergency medicine physicians, urges you to consider carefully our recommendations in the interest of the patients who we serve on a daily basis. If you have any questions regarding our comments or would like more information, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Larry D. Weiss". The signature is fluid and cursive, with a large initial "L" and "W".

Larry D. Weiss, MD, JD, FAAEM