



Michael D. Maves, MD, MBA, Executive Vice President, CEO

February 5, 2008

The Honorable Lois Capps
U.S. House of Representatives
1110 Longworth House Office Bldg
Washington, DC 20515

Dear Representative Capps:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to extend our support for H. R. 4105, the “Medicare Recovery Audit Contractor Program Moratorium Act of 2007,” which would impose a one-year moratorium on the Recovery Audit Contractors (RAC) program. As you know, Section 306 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 mandates pilot projects that employ RACs—private companies that contract with CMS—to conduct analyses and audits of physician reimbursement claims. While the AMA fully supports accurate billing practices and is very mindful of the need to educate physicians about Medicare’s policies regarding billing issues, we believe that the RAC program is not the proper means to achieve these goals.

The RAC program has been an enormous burden on the affected physicians and has failed to further the worthy goal of eradicating frequent billing mistakes. We strongly believe that any problem with over and/or underpayment of Medicare claims could be resolved more effectively through outreach and education, rather than the aggressive and onerous tactics employed by the RACs. The RAC program is draconian, time-consuming, and devoid of efforts to improve the Medicare system. Moreover, it is based upon perverse incentives. RACs are not compensated by CMS. Instead, they receive a share of the funds recovered from alleged overpayments, otherwise known as “contingency fees.” At best, this type of compensation system lends itself to the possibility of questionable audit results, with “borderline” claims being pursued and investigated. At worst, it forces physicians, whose time is better spent caring for patients than reviewing old documents and pursuing appeals, to simply yield to unproven RAC claims.

In addition, challenging or appealing RAC claims requires physicians to reallocate valuable resources to provide data that could be as many as four years old. The RACs typically require physicians to collect and send myriad documents, including physician orders and progress notes, diagnostic test results, history, operative reports, and certificates of medical

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necessity, even when the requested documentation is housed in a multitude of different locations or facilities. In addition to losing countless patient hours, this program is redundant. Other audit processes such as the Comprehensive Error Rate Testing Program (CERT) and random audits are already being utilized by CMS to identify and collect overpayments.

The AMA believes that the RAC program is fatally flawed. The pilot project has been incredibly arduous and has failed to address the need to educate and communicate with physicians in order to avoid billing mistakes. Thus, we fully support H.R. 4105 and we appreciate your efforts to suspend and reevaluate this program.

Sincerely,

A handwritten signature in black ink, reading "Mike Maves". The signature is written in a cursive style. To the right of the signature is a vertical red line.

Michael D. Maves, MD, MBA