

November 27, 2020

*Submitted electronically:*

[https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref\\_nbr=202010-0938-012](https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202010-0938-012)

Ms. Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Baltimore, MD 21244-8013

**Re: Agency Information Collection Activities: Submission for OMB Review; Comment Request; Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging Services**

Dear Administrator Verma:

The undersigned organizations appreciate the opportunity to comment on the intention of Centers for Medicare & Medicaid Services' (CMS) to collect information from provider-led entities (PLE) for purposes of the Medicare Appropriate Use Criteria (AUC) Program for advanced diagnostic imaging as set forth under Section 218(b) of the "Protecting Access to Medicare Act (PAMA) of 2014."

In the notice published on October 28, 2020 in the *Federal Register*, interested persons are invited to submit comment regarding the "burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions."

As the Agency considers the burden associated with the collection of information from PLEs on their adherence to specific requirements when developing, modifying or endorsing AUC, we wish to use this opportunity to highlight that it has been six years since the "Protecting Access to Medicare Act" was enacted and there is no indication from CMS the Program can be implemented to the full extent of the law.

We believe it is incumbent upon the Agency to publicly report the obstacles to further implementation of the Program and to consider the cost and administrative burden on physician practices that are being told to prepare for a program that is mired in complexity and uncertainty and for which the necessity is questionable. According to one estimate, it will cost \$75,000 or more for a practice to implement a clinical decision support mechanism to comply with the rules of the AUC Program.<sup>1</sup>

In 2020, CMS launched the educational and operations testing period for the program which will extend into 2021. The law has been met with ongoing implementation challenges and in the intervening time, the Program has grown outdated — particularly with subsequent passage of MACRA and the rise of new health care payment and delivery models, including those that hold clinicians responsible for health care

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<sup>1</sup> Association for Medical Imaging Management; 2017 <https://ahralink.files.wordpress.com/2017/03/cds-survey-2017.pdf>

resource use. To illustrate this point, the Center for Medicaid and Medicaid Innovation announced on November 20, 2020 details on the first cohort of Primary Care First participants, which includes 916 primary care practices. Primary Care First, which begins on January 1, 2021, will focus on advanced primary care practices ready to assume financial risk by moving away from fee for service to a prospective population-based payment. Under such a payment arrangement, primary care physicians will be incentivized to improve quality and patient experience of care, and reduce expenditures through appropriate utilization of health care resources.

The stand-alone AUC Program, which is void of integration with patient quality, outcomes and satisfaction metrics, should be re-evaluated for its necessity and value. In fact, by finalizing new exceptions to the physician self-referral law for value-based arrangements<sup>2</sup>, CMS is relying on the premise that a value-based health care delivery and payment system, by design, provides safeguards against over utilization. We agree.

We thank CMS for the opportunity to comment and appreciate consideration of our concerns.

Sincerely,

American Academy of Family Physicians  
American Academy of Neurology  
American Academy of Otolaryngology – Head and Neck Surgery  
American Alliance of Orthopaedic Executives  
American Association of Neurological Surgeons  
American College of Osteopathic Surgeons  
American College of Surgeons  
American Podiatric Medical Association  
American Society for Gastrointestinal Endoscopy  
American Society of Echocardiography  
American Society of Nuclear Cardiology  
American Society of Plastic Surgeons  
Association of Black Cardiologists  
Congress of Neurological Surgeons  
MCG, Part of the Hearst Health Network  
Medical Group Management Association

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<sup>2</sup> Medicare Program; Modernizing and Clarifying the Physician Self-Referral Regulations; CMS-1720-F. <https://public-inspection.federalregister.gov/2020-26140.pdf> Accessed on 11.25.2020.