

February 27, 2017

The Honorable Tom Price
Secretary
The Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Price:

On behalf of the 161,000 members of the American Dental Association (ADA), the world's oldest and largest dental professional organization, we request that you reexamine the enrollment requirement¹ for dentists and other health care professionals who do not submit claims for reimbursement to Medicare.

Specifically, the ADA requests that the Secretary exclude dentists from this proposed requirement unless they are required to enroll in Medicare because they provide Medicare-covered services. To do otherwise places an unnecessary burden on dentists and their Medicare eligible patients and it does not serve to address the underlying rationale for section 6405, which is to stop fraud and abuse in the Medicare program.

The ADA is aware that the proposed rule implements a provision in the Patient Protection and Affordable Care Act (Public Law 111–148) (ACA) that gives the Secretary the authority to take the above described action but does not require the Secretary do so. Section 6405 of the ACA requires physicians who order items or services to enroll in Medicare or opt-out of the program but states the Secretary “may” extend this requirement to covered Part D drugs.

The Association applauds the Department of Health and Human Services and Department of Justice’s efforts to prevent fraud, waste, and abuse in Medicare. As tax payers, dentists are also concerned about criminals masquerading as health care professionals or suppliers, submitting false or fraudulent billings to Medicare. However, the ADA is not aware of, nor has CMS demonstrated, high-billing levels associated with prescriptions written by dentists for Medicare eligible patients. Therefore, there appears to be little need for this requirement as it applies to dentists yet the administrative burden would be significant.

Furthermore, the Centers for Medicare and Medicaid Services already has access to the information needed to maintain program integrity through the dentists’ National Practitioner Identification (NPI) numbers and adverse event reporting maintained through the National Practitioner Data Bank (NPDB). Any enforcement action affecting health care professionals that allegedly violate ethical prescribing practice should remain within the State Boards of Pharmacy and the respective professional state licensing boards.

¹ As proposed in Part 423 – Medicare Program; Medicare Prescription Drug Program § 423.120 Access to covered Part D drugs (c) (5) ii and (c) (6).

The implementation of this rule has proved difficult as evidenced by the delays in enforcement. While the final rule was initially published on May 23, 2014, the implementation date has been changed multiple times. The current implementation date of January 1st, 2019, is in recognition of the relatively slow response of non-Medicare participating dentists and other professionals to enroll in or opt-out of Medicare.

We are certainly willing to discuss these concerns with the appropriate officials in CMS. Please contact Dr. Frank Kyle in our Washington, DC Government Affairs office at 202-789-5175 or kylef@ada.org.

Sincerely,

/s/

Gary Roberts, D.D.S.
President

/s/

Kathleen T. O'Loughlin, D.M.D., M.P.H.
Executive Director

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