MGMA Center for Research
American College of Medical Practice Executives
Medical Group Management Association

December 23, 2011

The Honorable Secretary Kathleen Sebelius
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

**Re: Proposed Rule entitled Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS-9070-P)**

Dear Secretary Sebelius:

The Medical Group Management Association (MGMA) is pleased to provide comments on the proposed rule "Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction" as issued in the *Federal Register* on Oct. 24, 2011. MGMA strongly supports the Department of Health and Human Services' (HHS) and Administration's efforts to identify and eliminate obsolete or burdensome rules. MGMA is pleased to see some helpful changes to the Medicare enrollment system. However, this regulation does not go nearly far enough in eliminating and streamlining a myriad of regulations that pose significant burdens on physicians and medical practices. MGMA urges HHS to continue its efforts to reduce onerous regulatory requirements on medical groups.

MGMA, founded in 1926, is the nation's principal voice for medical group practices. MGMA's nearly 22,500 members manage and lead 13,700 organizations, in which 280,000 physicians provide more than 40 percent of the healthcare services delivered in the United States. MGMA's core purpose is to improve the effectiveness of medical group practices and the knowledge and skills of the individuals who manage and lead them. Individual members, including practice managers, clinic administrators and physician executives, work on a daily basis to ensure that the financial and administrative mechanisms within group practices operate efficiently so that patient care remains the focus of physicians' time and resources.

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**Changes to Medicare Enrollment**

HHS proposes to revise §424.535(c) so that existing bans to Medicare re-enrollment would not apply if the revocation is based solely on a physician or group practice's failure to respond in a timely manner to a revalidation request or request for other enrollment-related information. MGMA strongly supports this change, which will lessen existing harsh consequences, including a re-enrollment ban of up to three years, for failure to reply in a timely manner. MGMA appreciates Centers for Medicare and Medicaid Services' (CMS's) recognition that it is often unintentional when a provider does not respond in a timely manner.

For instance, a provider may be unaware of the request or it may have been delivered to the wrong address. This change is especially important as CMS continues its extensive effort to revalidate all Medicare providers by 2015, and we urge HHS to finalize this policy change.

The rule also includes a proposed change to existing policy at §424.540(a)(1). Currently Medicare providers or suppliers are automatically deactivated for not submitting a Medicare claim for 12 consecutive months. Deactivated providers or suppliers are then required to submit a new enrollment application, which must be processed by the Medicare contractor before billing privileges are reactivated. In this rule, HHS proposes to exempt physicians who complete the individual enrollment form (855I) from being deactivated. MGMA strongly supports this change which will ease the burden on physicians, and we encourage HHS to finalize the proposed revision.

**Additional Regulations for Review**

MGMA submitted comments in June 2011 on additional regulatory requirements that the agency should revise. It is crucial to our nation's healthcare system that we continually evaluate regulations to ensure quality and cost-effective care through consistent and streamlined requirements. Regulations with inconsistent requirements create unnecessary burdens on medical groups and other healthcare providers seeking to comply with government mandates. Such inconsistency ultimately hinders the delivery of healthcare and the effective performance of medical group practice professionals.

MGMA supports HHS's and the Administration's efforts to conduct cost/benefit analyses as an essential part of evaluating regulations. In order to achieve the goals of this regulatory review, we reiterate our support for HHS to review rules in addition to the proposed changes set forth in the Oct. 24 issuance. We recommend that HHS make the following changes:

*Medicare enrollment system (PECOS)*

- Eliminate this redundant system and standardize Medicare provider credentialing with other public and private payers though adoption of the CAQH UPD. The UPD is the industry standard and widely used by commercial payers and state Medicaid programs.

*Quality incentive programs*

- Integrate and align quality incentive program requirements, including those for the Physician Quality Reporting System (PQRS), the EHR Incentive Program (meaningful use) and the Electronic Prescribing Incentive Program. CMS should deem all physicians that meet meaningful use requirements (and therefore electronically prescribe and report clinical quality measures under that program) as also successfully meeting all electronic prescribing and PQRS requirements in each corresponding performance year.

- Provide timely and meaningful feedback and assistance with identifying and correcting unsatisfactory reporting throughout the year. This is critical to the success of the quality improvement programs implemented by CMS.

- Review clinical quality measures and align them across HHS programs as well as across sites of service such as physician offices and hospital inpatient and outpatient departments. Ensure the uniform implementation of national standardized measure sets.

*Federal healthcare fraud and abuse regulations*

- Standardize fraud and abuse exceptions and eliminate numerous conflicting requirements placed on healthcare providers. These changes will reduce physicians' burden of complying with multiple inconsistent regulatory schemes.

*HIPAA*

- Do not require cumbersome new privacy and security requirements. The 2003 privacy and 2005 security regulations have proven sufficient to protect the confidentially of patient information. Additional onerous and costly requirements serve only to impede the cost-effective provision of quality care.

*Administrative simplification*

- Pilot test new programs prior to large-scale implementation. We continue to be concerned with the lack of pilot testing prior to national implementation of complex and costly new standards such as HIPAA Version 5010 and ICD-10. In addition, the failure of HHS to appropriately fund the development and implementation of critical administrative simplification initiatives has led to their protracted implementation and has resulted in unnecessary cost to the industry.

*Medicare Contractors including Recovery Audit Contractors*

- Ensure that Medicare contractors perform their duties consistently and transparently to maximize provider understanding and compliance with government requirements. In its attempts to eliminate improper payments, HHS has empowered numerous contractors to audit healthcare providers. MGMA members continue to report inconsistencies in the guidance given by various contractors, delays in contractor correspondence and continued confusion about the contractors' specific identity and authority and the relevant timeframes of the audit.

*Translators*

- Review limited English proficiency and hearing impaired translator mandates on practices and consider potential unintended consequences of additional financial and administrative burdens on healthcare providers.

We look forward to working with the agency as it continues its process of reviewing burdensome and outdated requirements. Thank you for the opportunity to comment on these important issues. Should you have any questions regarding our comments please contact Allison Brennan at abrennan@mgma.com or 202-293-3450.

Sincerely,

Susan Turney, MD, MS, FACP, FACMPE
MGMA president and CEO