



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

April 24, 2007

Ms. Bonnie L. Harkless  
Office of Strategic  
Operations & Regulatory Affairs  
Division of Regulations  
Development-C  
Room C4-26-05  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Ms. Harkless:

On behalf of the physician and medical student members of the American Medical Association (AMA), I respectfully submit the following comments to the notice that the Centers for Medicare & Medicaid Services (CMS) issued on February 23, 2007, concerning proposed changes to the content and format of the Advance Beneficiary Notice (ABN) for health care items and services (ABN, form CMS-R-131-G) and the ABN for laboratory tests (CMS-R-131-L). CMS requires physicians to supply their patients with an ABN prior to providing certain services, items, or tests if it is anticipated that such services, items, or tests will not be covered and paid by Medicare. Among other things, CMS proposes to consolidate the two forms into one form.

While the AMA appreciates CMS efforts to streamline the ABN paperwork requirements, we have serious reservations about the development of the new language and format without the input of physicians and other stakeholders. The current language in the ABN is the product of a collaborative effort among CMS, physicians and other stakeholders. As a result, use of the ABN forms has been widespread. This previous successful collaboration is an example of how the current process should be conducted. Given the heightened level of interest in the forms when they were last reengineered several years ago, where the AMA and others including the Practicing Physicians Advisory Council (PPAC) offered significant input, CMS should obtain additional feedback on the new, consolidated form. **We strongly urge CMS to seek PPAC feedback prior to implementing changes.**

**There are a number of issues that need to be addressed and we would like to work with CMS and other stakeholders to resolve them prior to the implementation of the new form.** The following recommendations are examples of how CMS would benefit from additional stakeholder input. We would welcome the opportunity to engage in the previous collaborative process to fully flesh out the following recommendations:

- Conduct a significant amount of outreach to physicians, providers, and patients in order to educate them about the changed form.
- Replace the phrase “Item(s)/Service(s)” wherever it appears in the document with “Item(s)/Service(s)/Test(s)”
- Revise the first paragraph above the table to read:

We think Medicare will not pay for the item(s)/service(s)/laboratory test(s) that are described below. Medicare does not pay for all of your health care costs. Medicare only pays for covered items, services, or laboratory tests when Medicare rules are met. The fact that Medicare may not pay for a particular item, service, or laboratory test does not mean that you should not receive it. There may be a good reason your doctor recommended it. Below are the item(s)/service(s)/laboratory test(s) we don’t think Medicare will pay for, the reasons why, and the estimated costs.
- Re-format the first table so that the language concerning:

Why Medicare probably won’t pay for a laboratory test is retained since removing these reasons could create confusion that could be averted. Under the revised form, this language was removed and this could add to rather than streamline the ABN process by creating the need for more frequent communication between a physician’s office and laboratory concerning coverage, require more time filling out the form, and more time explaining the form to patients.

Second, we disagree that a column for cost should be included. Frequently, physicians do not know the cost of care for a particular item/service/test.
- Revise the language found in the three bullets below the table in the following manner:

**Understand your choices.** Medicare wants us to be sure you make an informed choice about whether or not you want to receive this item(s)/service(s)/laboratory test(s), knowing that you might have to pay for it yourself. Before you make a decision about your options, **you should read this entire notice carefully.**

  - Ask us to explain, if you don’t understand why Medicare probably won’t pay.
  - Ask us how much these items or services will cost you (**Estimated Cost - if known**):  
\$\_\_\_\_\_)
  - For questions on this notice or on Medicare billing, you can also call **1-800-MEDICARE (1-800-633-4227/TTY: 1-877-486-2048).**
- Under (G) Options, we recommend retaining the language in the current ABN-G/ABN-L. The language and way the information is presented in this table is easier to understand.
- Under (H), we are unclear why CMS added this language since this information is already included on claims.

Ms. Bonnie L. Harkless

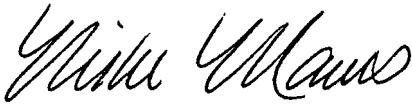
April 24, 2007

Page 3

**Finally, if CMS proceeds with implementation of the new form without stakeholder collaboration, we strongly encourage the agency to test pilot the form with patients to ensure the language and characteristics of the form such as table formats and fonts are widely understood.**

We appreciate the opportunity to offer this input and look forward to working with CMS and other stakeholders prior to the adoption of any changes to these forms. If you have any questions about our comments, please contact Mari Johnson at [mari.johnson@ama-assn.org](mailto:mari.johnson@ama-assn.org) or (202) 789-7414.

Sincerely,

A handwritten signature in black ink that reads "Mike Maves". The signature is written in a cursive, flowing style.

Michael D. Maves, MD, MBA