



November 8, 2018

Committee on Finance  
U.S. Senate  
Washington, D.C. 20510

Dear Senator:

On behalf of our one million-plus members and supporters, we the undersigned encourage you to allow the Centers for Medicare and Medicaid Service's (CMS) Recovery Audit Contracting (RAC) program to establish a permanent, nationwide prepayment claims review process for Medicare to stem the epidemic of wasteful improper payments that continue to plague the program.

The Recovery Auditing in Medicare Fee-For-Service Report to Congress for Fiscal Year 2016, released on September 19, 2018, documented that Medicare is losing nearly \$40 billion annually to improper payments, which echoes previous years' findings.

Medicare's actuaries have (once again) reminded Congress that the program slips into insolvency in 12 years. It is unconscionable, therefore, that more than 95 percent of Medicare Fee-for-Service claims are paid without a review for billing accuracy, especially when CMS has at its disposal a RAC program with a proven track record of preventing improper payments.

In September 2012, CMS launched a prepayment review demonstration project in 11 states with high incidences of improper payments and fraud, as well as four states with high numbers of short hospital stays. Despite being hamstrung by CMS rules that proscribed the RACs from freely pursuing areas of vulnerability in Medicare claims and the fact that it was abruptly truncated one year short of its statutory three-year duration, the RACs' prepayment demonstration project still recovered a net of \$192 million on behalf of Medicare beneficiaries.

Furthermore, the contractors participating in the prepayment review demonstration were able to examine the claims and resolve any billing errors within the legally mandated 30-day payment window, so as not to unduly burden Medicare providers by delaying their reimbursements.

The Government Accountability Office has repeatedly recommended that CMS fully implement this very highly successful program, and the current RAC arrangements contain enabling language for prepayment reviews. Yet, the previous administration paused the prepayment review program and then allowed it to lapse entirely.

In a July 25, 2018 speech before the Commonwealth Club of California, CMS Administrator Seem Verma addressed Medicare's chronic vulnerability to fraud and improper payments,

saying, “ ... program integrity is also an issue at CMS. Due to its sheer size, our programs are always vulnerable to fraud, waste, and abuse. ... Currently, the Medicare program only reviews less than 3/10 of 1 percent of the nearly 1.5 billion Medicare claims that CMS pays annually. We need to learn from our private sector colleagues, so we can be more efficient and do an even better job of safeguarding the fiscal integrity of our programs. ... we will use our demonstration authority to do more on program integrity. We need to modernize Medicare and how it handles waste, fraud, and abuse. We need to prevent inappropriate care on the front-end. It’s what the private industry is doing and CMS needs to catch up.” Medicare program integrity is clearly a high priority in the Trump administration.

We respectfully urge you to grant CMS the congressional approval it requires to revive and make permanent a nationwide Medicare prepayment claims review program. Furthermore, we urge that the RACs be allowed to use their proprietary data analytics technology, which has been used with great success for Medicare post-payment claims reviews, to identify billing areas with a propensity for erroneous payments and help prevent such payments to providers before they occur. This type of improved oversight can include not only RAC prepayment reviews, but also other tools like Medicare “smart card” technology, which the House of Representatives authorized in a pilot project earlier this year.

Taxpayers and Medicare beneficiaries have waited patiently for decades for CMS to move away once and for all from the wasteful and inefficient “pay and chase” program integrity model. Adding a significant prepayment review program, coupled with the current post-payment review program, is exactly the kind of private-sector best practice CMS is seeking to help prevent tens of billions in losses each year to protect Medicare now and in the future.

Sincerely,



Tom Schatz  
President, Council for Citizens Against  
Government Waste



Pete Sepp  
President, National Taxpayers Union

CC: Senate Committee on Finance Chairman Orrin Hatch (R-Utah);  
Subcommittee on Health Care Chairman Pat Toomey (R-Pa.);  
Committee on Finance Members;

House Committee on Ways and Means Kevin Brady (R-Texas);  
Subcommittee on Health Chairman Peter Roskam (R-Ill.);  
Committee on Ways and Means Members