June 29, 2010

Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS-600-IFC

Dear Acting Administrator Tavenner:

On behalf of nonprofit home health and hospice agencies represented by the Visiting Nurse Associations of America (VNAA), we are pleased to present to you our comments and recommendations regarding the Centers for Medicare and Medicaid Services’ (CMS) proposed Interim Final Rule (IFR) that was released May 5 entitled Medicare and Medicaid Programs; Changes in Provider and Supplier Enrollment, Ordering and Referring and Documentation Requirements; and Changes in Provider Agreements [CMS-600-IFC].

VNAA supports, promotes, and advocates for community-based, nonprofit home health and hospice providers that serve a large number of Medicare, Medicaid and uninsured patients as well as those who have private insurance. Our network of nonprofit home healthcare and hospice providers offer cost-effective and compassionate care to some of the nation’s most vulnerable individuals, in particular the elderly and individuals with disabilities.

We appreciate the hard work you are undertaking to implement many provisions in the Patient Protection and Affordable Care Act of 2010. However, we are concerned about the proposal to require all physicians who order and refer covered items and services for Medicare beneficiaries to be enrolled in Medicare and have their enrollment information in the Internet-based Provider Enrollment, Chain and Ownership System (PECOS) by July 6, 2010.

It is our understanding that if a referring/ordering physician is not enrolled in PECOS by July 6, 2010, providers that accept referrals or orders could see their claims rejected; this will result in severe restrictions to access to care for the vulnerable patients nonprofit home health providers serve. We believe this rule will have a disproportionately negative impact on nonprofit, safety net home health and hospice providers for a number of reasons:
• Nonprofit home healthcare providers will be financially vulnerable because of their core mission to serve all patients regardless of their ability to pay.

• Nonprofit home health agencies serve vulnerable Medicare patients under already constrained budgets and with limited information technology and personnel resources. They do not have the resources to quickly compare individuals in the CMS database with their list of referring/ordering physicians or quickly disseminate information to referring physicians regarding the enrollment process

• Implementation on July 6, 2010 does not provide adequate time for:

  o CMS to develop notice to Medicare beneficiaries to explain why home health services cannot be initiated until their physician is properly enrolled;

  o Outreach from CMS to physicians to educate them about this provision;

  o Physicians to complete the tasks required to enroll online (Physician associations report that there have been significant problems with enrollment over the past few years and the lack of appropriate contractor resources to handle the volume of enrollment applications.);

  o The 90 days that CMS and vendors require to process and post physician enrollment confirmations; and

  o Nonprofit home health agencies to learn about and efficiently use the complex PECOS.

To address our concerns, we are pleased to provide recommendations for CMS to implement into its final regulations. VNAA strongly urges CMS to:

• Assure that there are no denials on claims for referrals or orders for covered services prior to January 2011 solely on the basis that the referring/ordering physician is not yet enrolled in PECOS; and

• Permit physicians and other specialists covered by this provision to enroll/re-enroll by January 3, 2011.

VNAA and its members are known for their efforts to fight fraud and abuse in home health, hospice and across the healthcare delivery system and for their dedication to improving quality and efficiency in our sector. Most recently, we were pleased that our recommendation to place an agency-specific cap of 10 percent on outlier payments as a way to curtail inappropriate payments in home health was included in the Patient Protection and Affordable Care Act.
Because of our interest in fighting fraud and abuse coupled with our concerns about the proposed PECOS, we are available to discuss our recommendations with CMS at your convenience.

Thank you for your attention to this matter. If you have any questions, please don’t hesitate to contact me or Kathleen Sheehan, Vice President for Public Policy at VNAA at 202-384-1456 or KSheehan@vnaa.org.

Sincerely,

[Signature]

Andy Carter
President and CEO
Visiting Nurse Associations of America