

July 29, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, S.W.,  
Washington, D.C. 20201

Dear Administrator Verma:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, **the American Hospital Association (AHA) writes to urge the Centers for Medicare & Medicaid Services (CMS) to continue its suspension of medical review activities throughout the ongoing COVID-19 public health emergency.**

On March 30, CMS suspended most Medicare fee-for-service medical reviews in order to allow providers to focus more of their time and resources on fighting the COVID-19 pandemic. This pause includes pre- and post-payment reviews conducted by Medicare Administrative Contractors (MACs), Recovery Audit Contractors (RACs) and others. However, the agency has now indicated that it expects to begin resuming these audits on Aug. 3, 2020, regardless of the status of the public health emergency.

**The AHA is deeply concerned about CMS's decision to resume these burdensome audits during a pandemic. COVID-19 cases continue to increase and the number of hospitalizations is now on par with those in April. Requiring hospitals on the front line to divert their time, attention and resources away from patient care toward managing medical reviews – especially in the case of reviews conducted by RACs, which are paid on a contingency fee basis and thus incentivized to make inappropriate denials – will have a detrimental effect on their ability to manage the pandemic for their communities at the very time when it is needed most.**

Moreover, CMS is finally making some progress in reducing the backlog of Medicare appeals caused by aggressive and inaccurate RAC audits; restarting these audits could



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exacerbate the problem and reignite unacceptable and illegal appeals delays. These delays – during which CMS retains the funds attributable to improperly denied claims – could force hospitals and health systems to make increasingly difficult decisions about providing quality patient care with less and less money, at a time when they are already losing billions of dollars due to the pandemic. With a novel disease raging, about which we still know so little, this is not the time to empower contractors to question the medical judgment of health care providers.

In addition, while we appreciate the numerous waivers and flexibilities CMS has issued nationwide, including those that have allowed hospitals and health systems to focus on reacting and adapting swiftly to patient care needs, demands and decisions, it is unclear why the agency views audit flexibility as sufficiently different so as to withdraw it. In fact, the waivers CMS has provided – both in terms of flexibilities in providing care as well as the provision of regulatory relief – have been essential to our members' ability to manage the pandemic and provide high-quality outcomes for their patients. The actions CMS has taken to provide regulatory relief also go hand-in-hand with the agency's Patients Over Paperwork initiative. **To be clear, we urge the agency to refrain from differentiating between medical review audits and the other flexibilities you have created, and instead ensure *all* of the relevant waivers remain active during the pandemic.**

We greatly appreciate your leadership and ongoing efforts to support our members during this challenging time, and we look forward to continuing to work with you to protect our nation's health. Please contact me if you have questions or feel free to have a member of your team contact Shira Hollander, senior associate director of policy, at [shollander@aha.org](mailto:shollander@aha.org).

Sincerely,

/s/

Thomas P. Nickels  
Executive Vice President