

January 6, 2009

The Honorable Nancy Pelosi
Speaker
United States House of Representatives

The Honorable Dianne Feinstein
United States Senator

The Honorable Barbara Boxer
United States Senator

Dear Speaker Pelosi, Senator Feinstein and Senator Boxer:

On behalf of the California Academy of Family Physicians (CAFP), I am writing to follow-up on discussions Academy staff have had with your respective offices regarding Medicare. As you know, Medicare recently transitioned to a new Part B administrative carrier, Palmetto GBA. As I believe you also know, the transition to Palmetto GBA has caused significant disruption to medical practices around the state.

While we appreciate the efforts of California's congressional delegation to encourage Palmetto's timely processing of backlogged cases and ensure prompt payment, we believe that further steps must be taken. That's why we are urging you to request formally that the Government Accountability Office (GAO) investigate the transition process.

One of the reasons that this is so compelling relates to the transition's wide-ranging effects. Many physicians have received inappropriate claim denials for as long as six months. The Academy has been assisting a number of physicians owed more than \$150,000 by Medicare. These are solo and small family physician offices that simply cannot afford, nor should they have had, to take out loans, lines of credit, or use credit cards in order to accommodate a government agency's and government contractor's challenges in managing and/or administering a major federal program. The current financial crisis and tight credit market have only exacerbated the situation.

But it is not just physicians who have suffered. A number of physicians have contacted our Academy to say that they can no longer afford to see Medicare patients because they don't know when, or if, they will be paid by Medicare. I assure you that physicians do not take this decision lightly. Nor do they take lightly the possibility of needing to lay off staff because they cannot meet payroll obligations, obligations that have been made more significant by extra costs incurred to pay billing staff the overtime necessary to work through Palmetto's "system".

Based on these issues, we respectfully request that the GAO investigate a number of issues. The first is the dismal customer service available to providers and staff. We also must have a clear picture of the contracting process and oversight. Given both the number of taxpayer dollars involved and the impact on providers and patients, accountability is essential. The following provides more detail on what such an investigation should include.

As you may know, one of the most troubling problems has been the functionality of Palmetto's customer service capabilities. Often phone lines were not working at all. When they have worked, providers and staff have reported wait times of over an hour, if not more. And once they were able to speak to a representative, many of our members report that the representative was either unable to help them or gave them information that turned out to be inaccurate. While both Palmetto and the Centers for Medicare and Medicaid Services (CMS) have assured us that they have been diligently working to increase capacity and enhance training, anecdotal reports from our members indicate that there has not been a marked, or appropriate, improvement. Therefore, we request that a GAO report address: (1) how CMS and/or Palmetto estimated the numbers of customer service representatives necessary to staff the phone lines; (2) how frequently wait times or call disconnects were measured; (3) when it was determined that additional staff were required; (4) what mechanisms were put in place, beyond the advanced payment option, to ensure that providers were able to contact Palmetto or CMS staff with urgent and/or timely requests; and (5) how the effectiveness of customer service staff is being assessed.

It has been widely reported, both in the media and in communications from Palmetto, that one of the major reasons for payment delays has been a backlog of National Provider Identifier (NPI) applications inherited from Palmetto's predecessor, NHIC. A GAO report is necessary to determine the answers to the following contracting questions: (1) why was NHIC unable to process applications appropriately and in a timely way; (2) what oversight responsibilities did CMS have in ensuring NHIC fulfilled their contractual obligations as the Part B administrative carrier; (3) when was CMS made aware of the backlog and why was Palmetto not appropriately prepared to address it; (4) was there an opportunity to avoid implementing NPIs and switching contractors – two significant endeavors – during roughly the same time period; (5) did Palmetto's scope of work take into account the additional work necessary to eliminate the backlog; and (6) in what ways was NHIC held accountable for their performance on this contract?

Our Academy would also be interested in an analysis of the advanced payment option for physicians; for example, whether it effectively assists physicians in cases where a contractor is not able to meet timely payment or processing obligations. And finally, we would like to know if the interest payments that CMS is required to pay on clean claims denied for greater than 60 days is: (1) at a sufficient rate to cover or exceed the physician's overhead costs in going without funds; and (2) applied in cases where providers were not able to submit claims to Palmetto because of processing or other administrative problems that were no fault of the provider.

We believe the need for a GAO report is clear. We look forward to hearing from you, and thank you for continued advocacy on this issue.

Sincerely,

A handwritten signature in black ink on a light blue background. The signature is cursive and appears to read "Jeffrey Luther, MD".

Jeffrey Luther, MD
President

cc: The Honorable Mike Thompson
The Honorable Wally Herger
The Honorable Dan Lungren
The Honorable Tom McClintock
The Honorable Doris Matsui
The Honorable Lynn Woolsey
The Honorable George Miller
The Honorable Barbara Lee
The Honorable Ellen Tauscher
The Honorable Jerry McNerney
The Honorable Jackie Speier
The Honorable Pete Stark
The Honorable Anna Eshoo
The Honorable Mike Honda
The Honorable Zoe Lofgren
The Honorable Sam Farr
The Honorable Dennis Cardoza
The Honorable George Radanovich
The Honorable Jim Costa
The Honorable Devin Nunes
The Honorable Kevin McCarthy
The Honorable Lois Capps
The Honorable Elton Gallegly
The Honorable Howard McKeon
The Honorable David Dreier
The Honorable Brad Sherman
The Honorable Howard Berman
The Honorable Adam Schiff
The Honorable Henry Waxman
The Honorable Xavier Becerra
The Honorable Hilda Solis
The Honorable Diane Watson
The Honorable Lucille Roybal-Allard
The Honorable Maxine Waters
The Honorable Jane Harman
The Honorable Laura Richardson
The Honorable Grace Napolitano
The Honorable Linda Sánchez

The Honorable Edward R. Royce
The Honorable Jerry Lewis
The Honorable Gary Miller
The Honorable Joe Baca
The Honorable Ken Calvert
The Honorable Mary Bono Mack
The Honorable Dana Rohrabacher
The Honorable Loretta Sanchez
The Honorable John Campbell
The Honorable Darrell Issa
The Honorable Brian Bilbray
The Honorable Bob Filner
The Honorable Duncan D. Hunter
The Honorable Susan Davis