June 1, 2011

Donald Berwick, MD  
Administrator, Center for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1345-P  
P.O. Box 8013  
Baltimore, MD 21244-8013

VIA ELECTRONIC SUBMISSION

Re: Center for Medicare and Medicaid Services: File Code CMS-1345-P; Medicare Program; Medicare Shared Savings Program: Accountable Care Organizations

Dear Dr. Berwick:

We are writing to you in response to the Center for Medicare and Medicaid Services’ (CMS) proposed rule for the Shared Savings Program: Accountable Care Organizations as published in the Federal Register (Vol. 76, No. 67) on April 7, 2011. The Society of Nuclear Medicine’s (SNM) more than 17,000 members set the standard for molecular imaging and nuclear medicine practice through the creation of clinical guidelines, sharing evidence-based medicine through journals and meetings, and leading advocacy on key issues that affect molecular imaging and therapy research and practice. SNM is pleased to offer comments on the proposed rule.

SNM applauds CMS’ work in developing the proposed rule to implement Section 3022 of the Patient Protection and Affordable Care Act (PPACA) with a goal of improving care for Medicare beneficiaries while reducing costs and sharing the savings with providers. However, as this is an entirely new delivery and payment model, SNM recommends CMS issue an interim final rule, rather than a final rule, to allow flexibility in order to modify and improve upon the ACO regulations as more is learned about the model.

Due to concerns that a prescriptive approach may limit innovation, CMS proposes to allow ACOs the flexibility to choose the tools for meeting eligibility criteria around the promotion of evidence-based medicine. As part of the application, ACOs would be required to describe the evidence-based guidelines it intends to establish, implement, and periodically update. SNM encourages CMS to establish a set of minimal criteria by which the guidelines may be judged valid, such as the inclusion criteria and definition of evidence-based guideline used by the National Guidelines Clearinghouse. Without a minimal set of criteria, the possibility exists for significant inconsistencies between ACOs as to what is considered evidence. Since reduction in the utilization of imaging procedures is one of the main ways by which ACO’s will decrease costs, it is important to ensure that appropriate imaging is not reduced and that efforts be made to ensure that reductions occur in inappropriate tests. The best way to ensure this is by the use of multispecialty endorsed Appropriateness Criteria and Practice Guidelines. Guidelines and criteria...
promulgated by single specialty societies have a potential inherent bias and input from imaging specialists should be encouraged when guidelines are being developed.

SNM agrees that value-based payment systems should rely on a mix of quality measures, including standard, process, outcomes and patient experience measures. Furthermore, we agree that these measures should be validated and accepted by the professional provider community, such as through National Quality Forum (NQF) endorsement. The 65 measures that will be used to create the performance benchmark and measure an ACO’s contribution to high quality are largely individual measures based in primary care. Measures need to be developed for quality involving specialty care particularly in the major cost areas such as heart disease and cancer. A stated goal of the proposed rule is to align the Accountable Care Organizations program with other Medicare quality improvement programs, specifically, the EHR Meaningful Use Program and the Physician Quality Reporting System (PQRS), in an effort to limit burden and incentivize participation. However, CMS states that the ACO will submit data to the PRQS as a group practice. SNM recommends clarification regarding the process by which a physician who may not be eligible for PQRS incentive payments as an individual may receive payments through ACO participation. Furthermore, many nuclear medicine practices utilize customized EHR systems designed to satisfy other Federal agencies’ requirements such as the NRC. Freestanding practices should be eligible for EHR participation rewards when such systems are in use and contain additional patient data beyond the minimal required to satisfy their original purpose.

The SNM supports the proposal that specialists be allowed to participate in more than one ACO. Additionally, the SNM is pleased CMS will maintain the fee-for-service payments to individual providers. We believe there is a role for nuclear medicine physicians to contribute to better quality and efficiencies in the new ACOs in a consultative role.

We encourage CMS to include specialty society appropriateness criteria in their quality criteria, especially if there has been multispecialty endorsement. The goal of using evidence based medicine is laudable and one that we endorse; however good evidence does not exist for much of what is common practice in US medical care. Until such evidence can be developed and validated, it is important that CMS recognize that expert consensus of experienced clinicians and specialists are the best alternative. The SNM agrees there is a need for decision support systems to help manage appropriate utilization. However, we caution CMS to ensure penalties are established only for inappropriate overutilization rather than provide incentives purely for underutilization. We strongly believe performing the right test, on the right patient, at the right time, is the best use of Medicare resources. We believe nuclear medicine professionals are uniquely qualified to assist CMS in the development of meaningful quality measures and criteria for the services we provide.

SNM supports the use of performance measures and appropriateness criteria, however the current measurement programs implemented by CMS have not yet translated into meaningful improvement in the quality of care. Therefore, SNM cautions CMS to be cognizant of the possibility that ACOs may impede advances in medical practice through innovation and new discoveries because they reward the ‘old’ and proven, not the ‘new’, which may result in improved patient outcomes. The ACO model must not only control costs, but also encourage
and support innovation that advances medical knowledge and improves health of Medicare beneficiaries.

The SNM appreciates the opportunity to provide comment on the proposed rule for Accountable Care Organizations. Should you have any questions, please contact Sue Bunning, Director of Health Policy and Regulatory Affairs, sbunning@snm.org or (703) 326-1182.

Sincerely,

Dominique Delbeke, MD, PhD
President, SNM

CC: George Segall, MD
    Fred Fahey, DSc
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    Virginia Pappas
    Sue Bunning