



**National
Business
Group on
Health**

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Creative Health Benefits Solutions for Today, Strong Policy for Tomorrow

March 4, 2010

The Honorable Charles E. Schumer
U.S. Senate
313 Hart Senate Office Building
Washington, DC 20515

Dear Senator Schumer:

The National Business Group on Health wholeheartedly supports your recent statement at the President's February 25th "Health Summit" to eliminate the abuse and overutilization of unnecessary and potentially harmful imaging services.

The National Business Group on Health represents approximately 300, primarily large, employers who voluntarily provide health benefits and other health programs to over 55 million American employees, retirees, and their families.

As you know, legislation has been introduced in the House that would amend the current Stark law to prohibit Medicare physician self-referrals for magnetic resonance imaging (MRI), computed tomography (CT) and positron emission tomography (PET), which are the medical scans most prone to overutilization.

The current Stark exception allows Medicare physicians to self-refer patients for imaging studies conducted in their office, in which they have a financial interest. Studies have shown that physicians who own imaging equipment are two to seven times more likely to order imaging tests and that physician self-referrals are driving up imaging utilization.¹ The Government Accountability Office (GAO) recently reported that spending for medical imaging has approximately doubled from 2001-2006 to \$14.11 billion under Medicare (Part B).² In response to concerns about overutilization of imaging in Medicare, the Medicare Payment Advisory Commission (MedPAC) recently recommended excluding certain services from the exception, reducing payments for rates for tests performed by self-referring physicians and requiring prior authorization for physicians who self-refer for advanced imaging.³

¹ America's Health Insurance Plans. Ensuring Quality through Appropriate Use of Diagnostic Imaging. July 2008. Available at <http://www.ahip.org/content/default.aspx?docid=24057>

² Government Accountability Office (GAO). Medicare Part B Imaging Services. Rapid Spending Growth and Shift to Physicians Offices Indicate Need for CMS to Consider Additional Management Practices. June 2008.

³ Winter, Ariel. Services provided under the in-office ancillary exception to the physician self-referral law. January 15, 2010. Available at: http://www.medpac.gov/transcripts/In-office%20services_Jan%202010_public.pdf

Undoubtedly, advances in radiology aid in the diagnosis and treatment of illness, with some studies pointing to less invasive testing and lower total costs. As you stated during the summit we need to “wring that waste out, that fraud, abuse, duplication, without interfering with the good care that we want every person on Medicare, Medicaid and private insurance to get.” Like everything else in medicine, balance is extremely important and imaging services are clearly out of balance in some locations and under some circumstances. Imaging use varies widely across geographic areas giving rise to speculation that these increases may be related to other factors such as imaging equipment availability that do not necessarily correlate with better quality or superior outcomes. For example, a recent Government Accountability Office (GAO) report found that in-office imaging spending per beneficiary varied almost eight-fold across the states—from \$62 in Vermont to \$472 in Florida.⁴

The increased use of certain imaging (primarily CT scans) has also raised concerns about unnecessary exposure to radiation, particularly among children. One study estimates that as many as 2 percent of all cancers in the U.S. may be attributable to radiation from CT scans, a concern that is magnified for children and pregnant women.⁵ The Food and Drug Administration (FDA) also recently reported that the average American's total radiation exposure has nearly doubled in the last three decades, largely due to next-generation imaging tests.

The FDA is considering new safeguards for CT scanners, nuclear medicine studies and fluoroscopy to prevent unnecessary radiation exposure⁶ and is investigating last year's incident where three California hospitals reported hundreds of acute radiation overdoses from CT scanners, with many patients reporting lost hair and skin redness. Despite these measures and heightened scrutiny, the current Stark exception and financial incentives to perform these tests will still promote unnecessary imaging.

We believe it is necessary for the quality and safety of care received by beneficiaries, the financial future of Medicare, and the wellbeing of the American people that strategies to promote the appropriate use of imaging services be pursued to avoid duplicate tests and unnecessary radiation exposure. Accordingly, we urge you to:

- 1) Add into any reconciliation, Medicare-related or other health care bill a prohibition on Medicare physician self-referrals for the medical scans most prone to overutilization;
- 2) Follow MedPAC's recent recommendations to exclude certain imaging services from the exception, reduce payments for rates for tests performed by self-referring physicians and require prior authorization for physicians who self-refer for advanced imaging; and

⁴ Demmerle, Cara and Jon Glaudemans. Diagnostic Imaging: Spending Trends and the Increasing Use of Appropriateness Criteria and Accreditation. Avalere Health. July 2008.

⁵ Brenner D., Hall E. Computed tomography – an increasing source of radiation exposure. New England Journal of Medicine. 2007. 357, 2277-2284.

⁶ Food and Drug Administration. FDA Unveils Initiative to Reduce Unnecessary Radiation Exposure from Medical Imaging. February 9, 2010. Available at: <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm200085.htm>

3) Support the FDA's initiative to reduce unnecessary radiation exposure from medical imaging.

The National Business Group on Health strongly supports your leadership on these issues which will increase patient safety, reduce overutilization of imaging services, and ensure that Medicare beneficiaries will be able to continue to access the medical imaging technology they need to detect and fight serious illnesses.

We thank you for your efforts and we look forward to working with you on this important issue. Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 585-1812, if you would like to discuss our comments in more detail.

Sincerely,

A handwritten signature in cursive script that reads "Helen Darling".

Helen Darling
President

cc:

The Honorable Harry Reid, Majority Leader, U.S. Senate
The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable Jackie Speier, U.S. House of Representatives
The Honorable Anthony Weiner, U.S. House of Representatives
The Honorable Bruce Braley, U.S. House of Representatives