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October 11, 2012

Douglas Elmendorf, Ph.D  
Director  
Congressional Budget Office  
Ford House Office Building  
Second & D Streets, SW, 4th Floor  
Washington, DC 20575-6925

Dear Dr. Elmendorf,

It has come to the attention of the American Association of Orthopaedic Surgeons (AAOS) that Congress has requested the Congressional Budget Office to estimate the cost or savings generated by eliminating the in-office ancillary services (IOAS) exception from the Stark Law. On behalf of over 18,000 board-certified orthopaedic surgeons, the AAOS requests an in-person meeting with you and your staff to illustrate the value this provision provides to our patients. We hope that this information assists you in determining the true cost of eliminating the IOAS exception.

More than 1 in 4 Americans have a bone or joint injury or disorder. The ability to quickly diagnose a musculoskeletal condition and initiate a treatment plan is integral to an orthopaedic surgeon's ability to restore patient mobility and prevent future injury. The in-office ancillary services (IOAS) exception to the Stark Law is an essential component to efficiently diagnosing and treating musculoskeletal conditions by allowing the provision of imaging and physical therapy (PT) services within the treating physician's office.

The patient/provider benefits of IOAS include:

- Better physician oversight of the quality of care being delivered.
- Improved care coordination among providers through shared knowledge of patient and case information.
- Greater patient adherence to treatment plans by eliminating scheduling delays, prolonged waits, and the need to travel to other offices, which is critically important for orthopaedic patients with mobility issues, especially those who are elderly.
- An integrated care model that combines healthcare providers of various fields to promote a team-based approach to musculoskeletal care delivery.

Closing the in-office ancillary services exception would require patients to receive imaging and physical therapy services at another medical office. This requirement would not only be burdensome for orthopaedic patients with mobility issues, but it would also considerably delay vital treatments due to the additional time required to identify, vet, schedule and then travel to a provider. According to the Agency for Healthcare Research and Quality (AHRQ), 60 to 70 percent of the insured population perceives difficulties or delays in obtaining care. Eliminating the exception would most certainly exacerbate those delays.

Eliminating the IOAS exception would be especially cumbersome for patients in rural areas where medical facilities are often miles apart, for elderly patients, and for patients with severe conditions like cerebral palsy who require medical transportation for each appointment. Currently, CMS spends \$5.5 million on non-emergency transportation services. If the exception is eliminated, this number could grow exponentially.

We anticipate that the transactional costs of obtaining care outside the treating physician's office—such as the time spent identifying, vetting, verifying insurance coverage, and actually traveling to the new location—might force patients to forgo their treatments altogether. The cost of not treating musculoskeletal conditions in a timely fashion could lead patients to develop conditions that are more burdensome and—most likely—more costly. This will not only impact healthcare costs, but it will also impact the economy since musculoskeletal conditions are already the greatest cause of total lost work days and medical bed days in the United States.

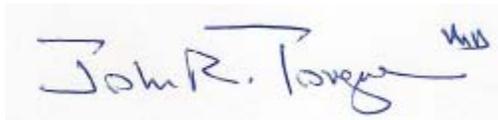
Closing the IOAS exception would also jeopardize the quality of orthopedic care being delivered. Maintaining these services in a single medical group promotes an environment for a variety of medical providers—including orthopaedic surgeons, radiologists, and physical therapists—to work together to manage a patient's treatment from start to finish. This type of integration has been promoted by Congress and the Administration as a means to achieve better health outcomes at reduced costs. Interrupting the continuum of care encouraged by IOAS would impede communication among musculoskeletal providers, resulting in the provision of unnecessary tests and erroneous treatments because the treating physician is not present. Inappropriate treatments would be harmful to our patients and place a financial strain on our healthcare system.

Much attention has been paid to the increase in the utilization of ancillary services. Some researchers have suggested, without high quality evidence, that the IOAS exception provides incentives for physicians to over-utilize these services. However, few have examined additional drivers of utilization such as consumer demand or practice variation. In recent years, patients have become more educated about their healthcare choices, which can lead them to choose quality, cost-effective care provided through integrated clinical services. Additionally, physicians may be more likely to provide ancillary services in locations where more patient demand already exists. In other words, there is no evidence that the volume of utilization of ancillary services is related to the ownership of these services, rather than other factors such as consumer demand or practice variation. Thus, although correlations between IOAS and increased utilization have been identified, a causal driver of utilization has not been substantiated.

Integrated clinical services, including in-office diagnostic imaging and physical therapy services, provide value to our patients and have resulted in demonstrated quality improvements in a variety of medical disciplines. The AAOS believes that Congress should place more scrutiny on whether these services are being utilized appropriately rather than on their cost. Increased utilization of appropriate services equals increased access to medically necessary care; increased utilization only equals over-utilization when the treatments are not medically necessary. The AAOS is invested in quality initiatives to ensure that only medically necessary services are performed on orthopaedic patients.

The IOAS exception yields prompt diagnoses, more effective treatment, and better outcomes for our patients. We would like to request a meeting with you and your staff to discuss what we have illustrated in this letter and to provide you with more information on the value of the IOAS exception. The AAOS looks forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "John R. Tongue" with "MD" written in smaller letters to the right of the name.

John R. Tongue, MD  
President  
American Association of Orthopaedic Surgeons