The US Oncology Network

August 21, 2018

VIA ELECTRONIC SUBMISSION THROUGH www.regulations.gov

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–1720-NC
P.O. Box 8013
Baltimore, MD 2144-8013

RE: Medicare Program; Request for Information Regarding the Physician Self-Referral Law

Dear Administrator Verma:

The US Oncology Network, which represents over 10,000 oncology physicians, nurses, clinicians and cancer care specialists nationwide, appreciates the opportunity to provide comment on the Request for Information (RFI) regarding the Physician Self-Referral Law. As a network of providers treating one of the most common and costly medical conditions today, we applaud your interest in improving care coordination and reducing regulatory burden while preserving clinical integration and access to high-quality, affordable care for our nation's seniors.

The US Oncology Network is one of the nation's largest and most innovative networks of community-based oncology physicians, treating more than 850,000 cancer patients annually in more than 400 locations across 25 states. The Network unites over 1,400 like-minded physicians around a common vision of expanding patient access to the highest quality, most cost-effective integrated cancer care to help patients fight cancer, and win.

**Stark Law and Integrated Cancer Care**

The in-office ancillary services exception (IOASE) to the "Stark" law preserves the longstanding practice of bringing together advanced treatment options when the service or procedure is ancillary to the original patient diagnosis. The provision enables our community-based practices to provide convenient, integrated and less expensive high-quality care. It allows clinicians to provide some services in the office setting, including advanced diagnostic imaging (MRI, PET, and CT scans), radiation therapy, anatomic pathology, and physical therapy, when complex and detailed supervision, location, and billing regulatory requirements are met. This provision is of particular importance to cancer care in the community setting in that it provides patient access to chemotherapy, radiation therapy and advanced imaging together - all under one roof with a coordinated team of caregivers.

The IOASE provision ensures patient access to fully comprehensive cancer care that spans the entire continuum of care while avoiding multiple or unnecessary visits to different sites – saving both time and money. It protects the doctor-patient relationship by ensuring there is only one treatment "team" managing a patient's course of care, and it improves coordination and communication between all physicians and caregivers through the use of a uniformed medical record, allowing for seamless treatment with different modalities and avoidance of unnecessary care. Importantly, the provision saves CMS and the healthcare system valuable funding by offering care in the most cost-effective setting. Medicare payment for advanced imaging, for example, is 36 to 53

percent higher in the hospital outpatient department (HOPD) setting than in a physician office[1]. Hospital-based radiation therapy services are also paid 21 percent more than the same care provided in a freestanding community-based clinic[2]. **As CMS seeks input on barriers to care coordination, The Network urges CMS to recognize the critical role of IOASE in integrated cancer care.**

**Consideration of rural providers and the cancer patients they serve in revisiting Stark Law applicability to emergency radiation referrals**

While most cancer patients across the United States have access to integrated care in their communities, previous regulatory actions are impeding access for others. In 2008, CMS issued a clarification limiting the ability of physicians to refer patients to "under arrangement" facilities. This clarification resulted in the prohibition of referrals for emergency radiation treatment if the initial visit occurred in a hospital, emergency room or during hospital rounds. CMS has ruled that since the patient was not first seen in the physician's practice, any external referral to a facility in which the physician has an ownership would violate the Stark Law. This has a significant impact on cancer patients in areas where there are few radiation therapy facilities, potentially causing patients to travel long distances for their radiation treatment or incur higher treatment costs at hospital-based radiation therapy centers. **We urge CMS to revisit this broad policy to ensure that cancer patients are able to obtain emergency radiation treatment in their community as necessary and appropriate.**

On behalf of the nation's leading community cancer care providers, thank you for the consideration of our comments on the Request for Information regarding the Physician Self-Referral Law. We are grateful to be able to engage in substantive discussions and welcome the opportunity to discuss this issue and others impacting community cancer care with you and your staff.

Sincerely,

Ben Jones
Vice President, Government Relations
The US Oncology Network

[1] Milliman, Inc., "Outpatient ancillary trends in the Medicare fee-for-service population: 2008-2012," December 2014.
[2] Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2018, 82 FR 52976 (2017).