

# United States Senate

WASHINGTON, DC 20510

June 25, 2015

Andrew Slavitt, Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Mr. Slavitt:

The locum tenens arrangement is a longstanding and widespread practice for physicians to retain substitute physicians in their professional practices when they are absent due to illness, pregnancy, vacation or continuing medical education. It is also acceptable for the regular physician to bill and receive payment for the substitute physician's services as if he/she performed them him/herself.

Under locum tenens, the patient's regular physician may submit a claim and (if assignment is accepted) receive the Part B payment for a covered visit of a locum tenens physician who is not an employee of the regular physician and whose services for patients of the regular physician are not restricted to the regular physician's offices, if:

- the regular physician is unavailable to provide the visit services,
- the Medicare beneficiary has arranged or seeks to receive the visit services from the regular physician,
- the regular physician pays the locum tenens for his services on a per diem or similar fee-for-time basis,
- the substitute physician does not provide the visit services to Medicare patients over a continuous period of more than 60 days, and
- the regular physician identifies the services as substitute physician services by entering the HCPCS modifier Q6 (service furnished by a locum tenens physician) after the procedure code in Item 24d on the CMS-1500 claim form or electronic equivalent.

Section 1842(b)(6) of the Social Security Act allows locum tenens for practitioners identified as "physicians" under Medicare. Specifically, the following providers may utilize locum tenens arrangements (when all other conditions are met and within their same authorized scope of practice):

- Doctors of Medicine
- Doctors of Osteopathy
- Doctors of Dental Surgery (or of dental medicine legally authorized by the state)
- Doctors of Podiatric Medicine
- Doctors of Optometry
- Doctors of Chiropractic

Physical therapists in private practice, especially those who are in small rural practices throughout America, have considerable difficulty arranging for substitute care when they need to be away from the office for health, family matters, or other reasons. Extending the locum tenens authorization to physical therapists may alleviate this difficulty and enable improved patient access to therapy services. We introduced a bill, S.313, to allow physical therapists who furnish outpatient physical therapy services to use locum tenens arrangements for payment purposes in the same manner as such arrangements are used for physicians.

In the process of determining the cost for the bill, the Congressional Budget Office raised questions about the utilization of the arrangement under current law. Further, questions were raised about the development of a 'cottage industry' in locum tenens under current law. So given the importance of the issues raised, we would like to ask you the following:

1. Given that all participating Medicare practitioners are required to have a National Provider Identifier (NPI), does CMS have any evidence that locum tenens as used by participating Medicare practitioners under current law have led to an increase in utilization of services?
2. Does CMS have any evidence of the development of a 'cottage industry' relating to the use of locum tenens under current law by participating Medicare practitioners? If so, does CMS have any evidence that this is leading to the provision of unnecessary services?
3. Does CMS have any evidence that the use of locum tenens under current law by participating Medicare practitioners is in any way inappropriate, wasteful or fraudulent?
4. Does CMS lack the authority to properly respond to the use of locum tenens under current law by participating Medicare practitioners if such utilization was found in any way to be inappropriate, wasteful or fraudulent?
5. Does CMS have any evidence of currently covered physical therapy services under Medicare that are not being accessed by beneficiaries because locum tenens arrangements are not authorized physical therapists?

Thank you for your attention to this request. Please provide a response no later than Thursday, July 2. Should you need any further information, please contact Rodney Whitlock (Grassley) at 202 224 3744 or Gillian Mueller (Casey) at 202 224 6324.

Sincerely,

  
Charles E. Grassley  
United States Senator

  
Robert P. Casey, Jr.  
United States Senator