Ms. Sandy Marks
Assistant Director, Federal Affairs
American Medical Association
25 Massachusetts Ave. N.W., Suite 600
Washington, DC 20001-7401

Dear Ms. Marks:

Thank you for your letter to former Centers for Medicare & Medicaid Services (CMS) Administrator, Marilyn Tavenner, concerning issues related to Medicare Advantage network adequacy and notification to enrollees about mid-year provider changes.

The CMS is reviewing its current network adequacy policies and requirements given recent activity in this area. This review includes examining requirements related to network adequacy, policies related to protecting enrollees when there are mid-year network changes, and ensuring the accuracy of provider directories.

Your letter urges CMS to prevent no-cause terminations throughout the plan year and ensure that physician network directories are accurate, up-to-date, and provide the information that patients need to make informed choices during the annual enrollment period.

Under long-standing Medicare rules, Medicare Advantage organizations (MAOs) have the flexibility to establish and manage their contracted provider networks, as long as the plans continue to furnish all Medicare Part A and B services, fully meet Medicare provider access standards, and have a process in place to ensure, in the case of a provider termination, that the continuity of medical care is maintained for enrollees affected by those terminations. In the recently released draft Contract Year (CY) 2016 Call Letter, we propose a number of actions in an effort to ensure the networks are adequate and that enrollees are provided accurate information about network providers.

The CMS shares your concerns about the accuracy of provider directories. In the draft CY 2016 Call Letter, we have reiterated the requirements for MAOs to maintain accurate provider directories and announce our intention to take compliance and enforcement actions to ensure that MAOs comply with those requirements. The draft CY 2016 Call Letter was released on February 20, 2015 and is available online at: http://www.cms.hhs.gov/MedicareAdvrgSpecRateStats/.

In addition, as announced in the CY 2015 Call Letter and effective this year, any MAO considering a significant network change must notify CMS at least 90 days prior to implementation of the changes. We will use that time to ensure that the MAO follows all
Medicare requirements in providing notice to and ensuring continuity of care for affected enrollees and providers. Additionally, CMS will review the remaining provider network to ensure that it fully meets Medicare access standards for all categories of providers.

You also suggest that CMS allow MA enrollees the opportunity to disenroll from their current plan and enroll in a new plan if the plan’s provider directory was found to be inaccurate. In special circumstances and on a case-by-case basis, CMS may allow a special election period (SEP) for an enrollee when the plan makes a substantial mid-year change to its provider network that affects the enrollee. We will consider your recommendation as a possible basis for adopting a general SEP.

You also suggest that CMS conduct a “look-back” study to evaluate whether enrollees who enrolled into other Medicare Advantage plans or back to the original Medicare program after an MAO implements “network narrowing” were disproportionately sicker and/or older. We will take this recommendation into consideration.

The CMS appreciates your recommendations. As discussed above, we have implemented a number of changes to protect beneficiaries and will continue to oversee the Medicare Advantage program with an eye to ensuring that appropriate beneficiary protections are in place. Please provide this response to the co-signers of your letter.

Sincerely,

Andrew M. Slavitt
Acting Administrator

cc:
American Academy of Allergy, Asthma & Immunology
American Academy of Dermatology Association
American Academy of Family Physicians
American Academy of Neurology
American Academy of Ophthalmology
American Academy of Otolaryngic Allergy
American Academy of Otolaryngology—Head and Neck Surgery
American Academy of Pediatrics
American Association of Clinical Endocrinologists
American Association of Neurological Surgeons
American College of Cardiology
American College of Mohs Surgery
American College of Osteopathic Surgeons
American College of Physicians
American College of Radiology
American College of Rheumatology
American Osteopathic
Academy of Orthopedics
American Osteopathic Association
American Psychiatric Association
American Society for Dermatologic Surgeons Association
American Society of Cataract and Refractive Surgery
American Society of Hematology
American Society of Retina Specialists
American Urological Association
College of American Pathologists
Congress of Neurological Surgeons
Heart Rhythm Society
Medical Group Management Association
Society for Cardiovascular Angiography and Interventions