

July 26, 2011

Donald Berwick, M.D.
 Administrator
 Centers for Medicare & Medicaid Services
 7500 Security Boulevard
 Mail Stop: C4-01-26
 Baltimore, MD 21244-1850

Dear Dr. Berwick:

As the Presidents of the organizations that make up the Council of Academic Family Medicine (CAFM) and the American Academy of Family Physicians (AAFP), we urgently request CMS revise [Transmittal 2247](#) effective July 25, 2011. In addition to other well intended clarifications, this transmittal included a change in the requirements for the primary care exception to the teaching physician policy that imposes significant and unnecessary extra costs on family medicine residency programs.

Since 1995, federal policy has been that teaching physicians (preceptors) could not bill under the primary care exception (PCE) for visits performed by Post-Graduate Year 1 residents (PG1's) in their first six months, unless the teaching physician was present for the key portion of the service. <http://federalregister.gov/a/X95-11208> A ratio of one preceptor to no more than four residents was required for billing under the primary care exception with the preceptor having no other duties during that time.

However, Transmittal 2247, without notice, changed that policy by adding the following: *Teaching physicians may include **one resident with less than 6 months** [emphasis added] in a GME approved residency program in the mix of four residents under the teaching physician's supervision.*

The impact of this change is outlined in the table below. Our main concern is this change would require an increase in the number of preceptors if more than one PG1 (under 6 months) was included in the mix of four residents.

(Note: PG1 here means only those in the first 6 months.)

Prior to Transmittal 2247	Change with Transmittal 2247
Up to 4 residents, any mix: One preceptor (bill for only non-PG1s, unless seeing key portion of visit)	Up to 4 residents, 1 PG1: One preceptor (bill for only non-PG1s, unless seeing key portion of visit)
Up to 4 PG1s, no other residents: One preceptor because the preceptor has to see all their patients – no longer a PCE clinic	Up to 4 PG1s, no other residents: One preceptor because the preceptor has to see all their patients and this is no longer a PCE clinic
Up to 4 residents, more than one PG1: One preceptor (bill for only non-PG1s, unless seeing key portion of visit)	Up to 4 residents – with more than one PG1: requires 2 preceptors for three or more residents

CMS has not explained why this change was included in the transmittal or why the agency perceived that it would be needed. The primary care exception has been in operation since it was codified in regulation in 1995. At that time, there were countless meetings with CMS (then HCFA) to negotiate a compromise regulation that would take into account the unique nature of primary care ambulatory training, particularly as it is practiced by family physicians in the family medicine center. As parties that were involved in those negotiations, we are

surprised and disappointed that CMS would make such a change without discussions with family medicine or other primary care organizations.

We believe a remedy is contained in this revision:

Teaching physicians may include residents with less than 6 months in a GME approved residency program in the mix of four residents under the teaching physician's supervision.

We strongly support this language and request that it be included as quickly as possible in a new transmittal. We consider this to be an urgent problem because the implementation date for this transmittal was July 25, 2011. The cost to family medicine and other primary care residencies of having to add an additional preceptor is significant – amounting conservatively to over \$50,000 per year per program¹. In addition, the scheduling and logistical difficulties to comply are prohibitive. If CMS wishes to continue with current language contained in Transmittal 2247, we believe it should be subjected to formal regulatory rulemaking with a public comment period.

Since CMS did not specify why this change was needed through a formal rulemaking process, we ask for an expedited review of the revision proposed above, and its implementation, or an immediate withdrawal of the language within the primary care exception portion of Transmittal 2247 relating to resident mix under the teaching physician's supervision.

If we can provide further assistance, please contact the CAFM Director of Government Relations, Hope Wittenberg, at hwittenberg@stfm.org, or the AAFP Director of Government Relations, Kevin Burke, at kburke@aafp.org.

Sincerely,



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Society of Teachers of Family Medicine




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¹ Estimate is based on average faculty salary costs for 2 half day clinics per week.