**Medicare Red Tape Relief Project**

Submissions accepted by the Committee on Ways and Means, Subcommittee on Health

Date: August 25, 2017

Name of Submitting Organization: Physicians Advocacy Institute

Address for Submitting Organization:

Name of Submitting Staff: Kelly Kenney, Executive Vice President/CEO

Submitting Staff Phone: (312) 543-7955

Submitting Staff E-mail: k2strategiesllc@gmail.com

Statutory

Regulatory ✓

**Please describe the submitting organization’s interaction with the Medicare program:** PAI is a not-for-profit advocacy organization focused on securing fair and transparent payment for physicians. PAI’s Board is comprised of CEOs/former CEOs of state medical associations from California, Connecticut, Georgia, Nebraska, New York, North Carolina, South Carolina, Tennessee and Texas and a Kentucky physician. A significant portion of the members of these and other states’ medical societies treat Medicare patients and submit claims to Medicare.

**Short Description:** Administrative Burdens Associated with Medicare Database Checks

**Summary:**

|  |  |
| --- | --- |
| Sec. 1102 of the Social Security Act (42 U.S.C. 1302) requires physicians who treat Medicare and Medicaid patients to perform monthly checks of online database to determine if any of their employees or contractors have been excluded from a federal health care program such as Medicare or Medicaid. In a [May 2013 bulletin](https://oig.hhs.gov/exclusions/files/sab-05092013.pdf), the US Office of Inspector General (OIG) discussed the requirement to screen contractors, subcontractors and employees of contractors in addition to the physician’s own employees. Contractors and subcontractors may also have a large number of employees. For example, a physician may contract with a large national laboratory to test bloodwork. The OIG leaves it up to the provider to determine whether or not to screen for those in addition to his/her own employees. If the provider requires contractors and subcontractors, by contract, to each check their own employees then the provider must validate that the screening is occurring by requesting and maintaining screening documentation from the contractor. The bulletin goes on to state that the provider is still liable no matter who performs the screening and subject to a civil monetary penalty (CMP) if he/she does not ensure that appropriate screening was performed.

|  |
| --- |
| Physicians face significant administrative burdens in having to check both the System for Award Management (SAM) and OIG Exclusion database on a monthly basis to ensure all of their hires – which can represent hundreds of individuals - are not in the database/excluded from Medicare. Physicians are forced to take time away from patient care or spend resources on a third party to perform these burdensome, frequent checks.  |

 |

|  |
| --- |
|  |

**Related Statute/Regulation:** 42 CFR 455.436

**Proposed Solution:** CMS should issue new rules or guidance to reduce the burden on physician practices to:

* Hold the contractor or subcontractor responsible for the civil penalties associated with failing to appropriately screen for their employees.
* Require that for physician practices, only new hires and/or those employees responsible for submitting claims for payment for direct services to Medicare or Medicaid beneficiaries need to be screened in the database.
* Reduce the administrative burden by mandating that checks should be required every 6-months, rather than monthly.
* In the event that an individual actively misrepresents data, hold that individual accountable for such misrepresentation.