

# American Chiropractic Association

September 30, 2005

Ms. Gaysha Brooks  
Centers for Medicare and Medicare Services  
Department of Health and Human Services  
Re: CMS-1502-P  
P.O. Box 8010  
Baltimore, Maryland 21244-8017

Dear Ms. Brooks:

This letter is written on behalf of the American Chiropractic Association in connection with the above-referenced proposed Rule. Specifically, we are concerned with the CMS proposal pertaining to the chiropractic services demonstration, which states in part on page 45852:

“Ensuring Budget neutrality requires that the Secretary develop a strategy for recouping funds should the demonstration result in costs higher than would occur in the absence of the demonstration. In this case, we stated we would make adjustments in the national chiropractor fee schedule to recover the costs of the demonstration in excess of the amount estimated to yield budget neutrality.”

The ACA would again restate its opposition to the application of any adjustments to the “national chiropractic fee schedule” as opposed to an adjustment to the overall physician fee schedule.

The ACA is troubled by CMS’ proposal to offset the costs of the demonstration projects with reductions to chiropractors alone, and not reductions to all items and services included under Part B. ACA believes the Congressional intent in this area is clear: In funding the demonstration, the law directs the Secretary to “provide for the transfer from the Federal Supplementary Insurance (Part B) Trust Fund ... of such funds as are necessary for the costs of carrying out the demonstration projects under this section” (See §651(f)(A)). And while CMS relies on the language in subsection (B) that directs the Secretary to “ensure” budget neutrality, the language itself doesn’t tell the Secretary how to do it – that directive resides in subsection (A) immediately above. The ACA is not opposed to budget neutrality; it only objects to the means by which CMS plans to ensure it. CMS’ plan to offset the demonstration’s costs with payment reductions to existing chiropractic services only, and not with reductions to the totality of services payable under the Part B Trust Fund as directed, is flawed. The ACA believes strongly that the totality of funds under Part B, not a discrete minority of services within it, should finance

the demonstration programs. The ACA is committed to budget neutrality but believes the current approach is seriously flawed and unfair to doctors of chiropractic.

Finally the ACA would like to again restate its opposition to the application of the "incident to" regulations to the chiropractic service demonstration. While the application of these regulations are not part of the above referenced proposed notice, we nevertheless wish to restate our objections as outlined in the attached correspondence with the department incorporated in these comments by reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin P. Corcoran". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kevin P. Corcoran  
Executive Vice President  
American Chiropractic Association