

Congress of the United States
Washington, DC 20515

January 31, 2012

Marilyn Tavenner
Acting Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, MD 21244

Re: Assignment of patients in Pioneer Accountable Care Organization

Dear Acting Administrator Tavenner:

We write to seek information regarding a concern that has been brought to our attention regarding the Pioneer Accountable Care Organization Model Program (Pioneer ACO Model) and notification letters that were allegedly incorrectly received by Medicare beneficiaries. Page six of the Centers for Medicare & Medicaid Service's (CMS) Pioneer ACO Model general fact sheet, released December 19, 2011, states that only those patients whose physicians choose to participate in an Accountable Care Organization (ACO) will be approached to participate as patients in the Pioneer ACO Model. It has come to our attention that this may not always be the case.

We have been informed that Medicare beneficiaries in Orange County, California received requests regarding participation in a Pioneer ACO, advising them that unless they choose to "opt out," Medicare will begin sharing their personal health information. However, in some cases, these beneficiaries are the patients of primary care physicians who in fact are not a part of any ACO.

It is our understanding that CMS has instructed some medical groups wishing to participate in the Pioneer ACO Model to include physicians who merely contract with them. These contracted physicians had not decided on participation and thus never consented to participating in the ACO. Yet, *their* patient information was collected when populating the ACO and allowed ACOs to contact *their* beneficiaries claiming, "Your doctor is participating in a new care coordination program."

While we are not aware of incidents in other parts of the nation, in California, predictably this is creating a great amount of confusion among patients and doctors and could have the damaging effect of inadvertently removing patients from their primary care physicians with whom they have established a relationship.

We respectfully request that CMS undertake a review of all 32 Pioneer ACOs on this matter. If any physicians have, as we have been informed, been misidentified as an ACO participant and their patients contacted, CMS should immediately contact all physicians and patients involved and rectify the misinformation. Furthermore, we ask that you inform us of how many physicians and patients may have been affected by this and that a process be created through which each individual physician affirms their participation in an ACO before that physician's patients are contacted. If this was in fact an isolated incident, we ask that CMS review the best practices utilized by the agency and the other Pioneer programs to ensure this mistake is not replicated in the future with the rollout of future ACOs.

Due to the time sensitive nature, the risk of continued disruption to primary care physicians and Medicare beneficiaries, and in the interest of not risking the integrity of the Pioneer Programs chance at

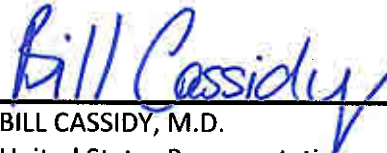
success we ask that you respond to us by February 10, 2012 with your findings on this matter. Additional delays risks only further frustrating the patient-physician relationship, as well as threatening the financial integrity of physician practices and Pioneer demonstrations.

We look forward to your rapid reply.

Sincerely,



EDWARD ROYCE
United States Representative



BILL CASSIDY, M.D.
United States Representative



PETE SESSIONS
United States Representative



JOHN FLEMING, M.D.
United States Representative



MICHAEL BURGESS, M.D.
United States Representative