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May 1, 2007

Sheila Ware
Network Vice President
Aetna
P.O. Box 569440
Dallas, TX 75356-9440

Dear Ms. Ware:

I am writing with respect to your company's April 1, 2007 "Dear Physician or Health Care Professional" letter indicating its plans to subject select endoscopy and colonoscopy procedures performed in the Dallas/Ft. Worth market to a site-of-service differential. For the reasons set forth below, we believe that this policy is inconsistent with the best interests of patients, as well as fundamentally unfair to the physicians who serve your subscribers.

1. INTRODUCTION

The American College of Gastroenterology is a physician organization representing gastroenterologists and other gastrointestinal specialists. Founded in 1932, the College currently numbers more than 9,500 physicians among its membership. While the vast majority of these physicians are gastroenterologists, the College's membership also includes surgeons, pathologists, hepatologists, and other specialists in various aspects of the overall treatment of digestive diseases and conditions. The College has chosen to focus its activities on clinical Gastroenterology – the issues confronting the gastrointestinal specialist in treatment of patients. The primary activities of the College have been, and continue to be, educational.

Well over 90% of gastrointestinal procedural services are provided in the hospital outpatient department or ambulatory surgery centers. Recent literature confirms the preference for facilities which meet Medicare certification criteria.

Your proposal is troubling. The site-of-service differential approach you plan to adopt on July 1, 2007, is not a new one. In fact, it has been adopted in some other jurisdictions. Upon subsequent review, however, jurisdictions have reversed these policies. Moreover, recent literature underscores significant problems with this site-of-service approach. Site-of-service payment differentials create false incentives for physicians to perform procedures in the unregulated office setting as the same physician work is done no matter what setting is used. This same approach was adopted by Medicare beginning in 1997. Despite the financial incentive, it is to the credit of gastrointestinal specialists that the percentage of Medicare GI services performed in the hospital outpatient department (HOPD) or ambulatory service center (ASC) are well over 90%, even though they are being offered a much larger fee if they would move to the office setting. It is important to recognize that the reason for this strong preference for the ASC and HOPD is that

performing these services in a facility that meets Medicare guidelines provides the best assurances of safety for patients and for preventing any complications. Even within the small subset of 5% or so of Medicare procedures which are recorded in the office or office setting, a substantial number of these are facilities in states which have certificate of need (CON) problems, and the facilities nonetheless meet the Medicare certification criteria even though not formally certified as an ambulatory service center.

Performance of procedures involving sedation and potential complications for such GI endoscopies needs to be accomplished in the setting that provides the best protections and strongest assurances for patients. Your adoption of this site-of-service approach is directly contrary to the best interests of those patients and subscribers. Your subscribers are not well-served by creating false economic incentives which may interfere with appropriate considerations for correct choice of location of procedural services they receive.

Moreover, the majority of GI Ambulatory Surgery Centers are small businesses. Unilateral site-of-service policies created unwarranted financial pressures on these entities, jeopardizing jobs and a key community source of care.

Further, pushing GI procedures out of the ASC setting to the unregulated physician office increases Aetna's liability as it may promote the offering of these procedures by providers who may not be adequately trained to perform them. In the first case, patient access to lifesaving screening benefits declines and in the second case, inferior patient care may be offered. In either case, your site-of-service policy is likely to have deleterious consequences.

We are enclosing and call to your attention the September 2003 article from *Archives of Surgery* detailing the experience in Florida with potential health risks and comparisons of Medicare certified vs. non-certified facilities. This study concludes that: "In this review of surgical procedures performed in offices and ambulatory surgery centers in Florida during a recent 2-year period, there was an approximately 10-fold increased risk of adverse incidents and death in the office setting. If all office procedures had been performed in ambulatory surgery centers, approximately 43 injuries and 6 deaths per year could have been prevented." So, again this study serves to demonstrate that the site-of-service approach is contrary to the best interests of your subscribers.

Other authorities have underscored the shortcomings of the site-of-service approach in GI endoscopy.

The Medicare Payment Advisory Committee (MEDPAC) has consistently underscored in its annual reports that the site-of-service policy for GI procedures is inappropriate. The site-of-service approach has also come under scrutiny from Congress.

Another large plan reversed its site-of-service policy.

A few years ago, Blue Cross/Blue Shield of Massachusetts unilaterally reversed its decision to adopt the site-of service policy. As you can see from the attached letter, Blue Cross/Blue Shield of Massachusetts had chosen to adopt a revision so that it now pays the

higher office fee for all endoscopic procedures regardless of where the procedure is performed. We would encourage Aetna to follow this precedent.

Conclusion

On behalf of gastrointestinal patients, the College's more than 9,500 physicians nationwide, and our members in clinical practice in Texas, we are:

1. advising you that adopting the site-of-service policy is detrimental to the best interests of our patients, increasing both the risks that the choice of location for their service may be made on economic rather than of quality of care rationale and that non-certified, unregulated facilities may compromise health interests along the lines outlined in the *Archives of Surgery* article; and
2. Asserting that it is an unfair underpayment to physicians for their provision of GI endoscopic services.

We believe that knowingly proceeding with this proposed site-of service policy, having been advised of the broad-based concerns about this policy's potential negative impact on patients creates risks and responsibilities upon your company for any untoward results. We urge you, therefore, to abandon your plans and maintain your prior approach/policy or to adopt the Blue Cross/Blue Shield of Massachusetts approach outlined in the attached correspondence.

Very truly yours,



David A. Johnson, M.D., FACP
President

cc: ACG Board of Trustees
ACG member physicians in Texas
Mike Geeslin, Texas Commissioner of Insurance
Bradley C. Stillman, Executive Director, ACG