

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

May 8, 2008

## **Via Electronic Transmission**

Kerry Weems  
Acting Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Acting Administrator Weems:

This letter requires your immediate attention. As you well know, the United States Senate Committee on Finance (Committee) has jurisdiction over, among other things, the Medicare and Medicaid programs. As Ranking Member of the Committee, I have a responsibility to ensure that program resources are spent appropriately and to protect the more than 80 million beneficiaries who receive health care through these federal programs.

From 1996-2002, the Department of Health and Human Services, Office of Inspector General (HHS OIG) was responsible for calculating the national Medicare Fee-For-Service (FFS) error rates, *i.e.*, the rate that Medicare dollars were paid out in error. In 2003, the Centers for Medicare and Medicaid Services (CMS or Agency) began monitoring the FFS payments under its Comprehensive Error Rate Testing (CERT) program and Hospital Payment Monitoring Program (HPMP) and reporting the national error rates to Congress for each fiscal year (FY).

According to CMS, the Agency's methodology for calculating improper payments includes requesting and reviewing medical records to evaluate whether or not claims were paid appropriately. However, I recently received an allegation that CMS did not conduct appropriate medical records reviews when it calculated the FY 2006 error rate(s) for claims submitted for durable medical equipment (DME). I suspect that the lack of, or inappropriate, reviews may have resulted in the underreporting of the DME error rate to Congress. Perhaps this underreporting also accounts in part for the increase in the DME error rate between 2006 and 2007.

Accordingly, I request that CMS explain the following in detail:

- 1) How did the Agency calculate the FY 2006 DME error rate and did it conduct appropriate medical records review(s)?

- 2) If medical record reviews were not conducted or not properly conducted, please explain why or to what extent CMS deviated from its established methodology. In addition, please advise me, if at all, the Agency identified any problems.

Please provide responses to these questions immediately.

By this letter, I am also requesting that HHS OIG investigate this matter promptly, re-examine the DME error rate, and keep me apprised regularly of any developments and findings in its investigation(s).

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley  
Ranking Member

cc: The Honorable Daniel R. Levinson  
Inspector General  
Department of Health and Human Services