



February 24, 2015

The Honorable Michael Enzi  
Chairman  
Committee on Budget  
U.S. Senate  
624 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bernie Sanders  
Ranking Member  
Committee on Budget  
U.S. Senate  
624 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Enzi and Ranking Member Sanders:

As you lead your colleagues in assembling the Fiscal Year 2016 Budget Resolution, the American Clinical Laboratory Association (ACLA) encourages you to include provisions removing anatomic pathology, advanced diagnostic imaging, radiation therapy, and physical therapy from the in-office ancillary services (IOAS) exception to the physician self-referral law. In addition to improving patient care and reducing inappropriate utilization of health care services, enactment of this policy will generate substantial savings to the Medicare program. The Congressional Budget Office has scored the savings at \$3.4 billion over ten years.

The intent of the IOAS was to allow clinicians to provide certain non-complex services, such as simple blood tests, needed to help inform the diagnosis and treatment of patients during an initial office visit. However, there is significant evidence that the IOAS exception regularly is being exploited by clinicians to provide services, such as anatomic pathology, that cannot be completed within the time frame of any patient visit, initial or otherwise. Further, the patients receiving services from self-referring physician practices oftentimes are not aware of the financial interests their physicians have in these arrangements.

Thus, on behalf of our member laboratories and the patients that they serve, ACLA believes that the IOAS exception should be narrowed. Under current law, physicians have increased their ordering and utilization of complex ancillary services where they have a financial interest in the provision of these services. Specifically, GAO and independent health services researchers have consistently found overutilization and increased costs to Medicare associated with physicians who self-refer for anatomic pathology and the other aforementioned services. For example, the GAO found that self-referring providers made an estimated 918,000 more referrals for anatomic pathology services than those who did not self-refer at a cost of \$69 million to the Medicare program in 2010 (GAO-13-445). Aside from the financial implications, the GAO also found overutilization of these services increases the risk of medical complications to Medicare patients.

This policy change has been recommended by physicians themselves in the *Journal of the American Medical Association*, the Bipartisan Policy Center, the Moment of Truth Project, and the President's Budget for Fiscal Years 2014-2016.

In closing, ACLA urges you and your colleagues on the Budget Committee to protect both Medicare beneficiaries and the financial health of the program by eliminating the ability of providers to subvert the IOAS exception for anatomic pathology, advanced diagnostic imaging, physical therapy, and radiation therapy. Please contact Francesca Fierro O'Reilly at either [foreilly@acla.com](mailto:foreilly@acla.com) or 202-637-9466 for additional information.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads 'Alan Mertz'.

Alan Mertz,  
President