**Draft Letter to Hospital Administrator on the Appropriate Use Criteria (AUC) Program**

**Dear …..,**

We are writing today to make you aware of an exemption to the federally-required Appropriate Use Criteria (AUC) Program that affects Medicare patients experiencing potential emergencies in our hospital.

As background, the Protecting Access to Medicare Act (PAMA)[[1]](#footnote-1) of 2014 created the AUC Program, which will eventually require physicians ordering advanced imaging for Medicare beneficiaries to first consult AUC through approved clinical decision support mechanisms to be able to receive payment. **PAMA specifically exempts emergency services defined as an “applicable imaging service ordered for an individual with an emergency medical condition[[2]](#footnote-2)” from the requirements.**

The Centers for Medicare & Medicaid Services (CMS) is the federal agency responsible for implementing the program. **CMS recently clarified that exemptions granted for an individual with an emergency medical condition include instances where an emergency medical condition is suspected, but not yet confirmed.[[3]](#footnote-3) This may include, for example, instances of severe pain or severe allergic reactions. In these instances, the exception is applicable even if it is determined later that the patient did not have an emergency medical condition**. CMS has followed up with instructions to clinicians to use modifier “MA” on the same line as the code for the advanced diagnostic imaging service in cases where the service is “being rendered to a patient with a suspected or confirmed emergency medical condition.” [[4]](#footnote-4)

CMS has slowly phased in the program, and in 2020, the program will enter into an “Educational and Operations Testing Period.” CMS has stated that during this phase of the program, “claims will not be denied for failing to include AUC-related information,” but CMS expects physicians to start consulting approved clinical decision support mechanisms or using an exemption modifier on individual claims.[[5]](#footnote-5) As we enter into this educational period, we want to work with you to update our systems to appropriately identify individual cases in the emergency department that would meet this exemption.

We believe many patients in our emergency department will qualify for this exemption. As emergency physicians, we often cannot differentiate whether a patient is experiencing an emergency or non-emergency condition just based on presenting symptoms. Many conditions share similar symptoms, so we often have to do a full work-up and exam to determine an accurate diagnosis. In fact, a 2013 peer-reviewed study published in JAMA of over 34,000 ED visits found that for those discharge diagnoses that could be considered primary care–treatable, the chief complaints reported for these visits were identical to those reported for 88.7 percent of all of the studied ED visits, many of which ended up requiring admission to the hospital, were triaged at the highest/most urgent level, or went directly to the operating room. [[6]](#footnote-6)

We believe it is essential to ensure that every provider in our hospital understands this exemption and does not consult AUC through clinical decision support mechanisms in possibly emergency situations. Every second matters in emergency care, and we do not want to put patients’ lives at risk simply because individuals are unaware of the exemption or because our hospital does not have systems or processes in place to operationalize the exemption.

Thank you for your attention to this issue, and we look forward to working with you to ensure our hospital appropriately adheres to the AUC Program requirements and exemptions.

1. The text of PAMA (Public Law No: 113-93) can be found here: <https://www.congress.gov/113/plaws/publ93/PLAW-113publ93.pdf>. [↑](#footnote-ref-1)
2. An emergency medical condition is defined in law as:

   * A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
     + Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy.
     + Serious impairment to bodily functions, or
     + Serious dysfunction of any bodily organ or part; or
   * With respect to a pregnant woman who is having contractions –
     + That there is inadequate time to effect a safe transfer to another hospital before delivery, or
     + That transfer may pose a threat to the health or safety of the woman or the unborn child.

   [↑](#footnote-ref-2)
3. CMS issued this clarification in the Calendar Year 2019 Physician Fee Schedule and Quality Payment Program Final Rule (page 59699), available at: <https://www.govinfo.gov/content/pkg/FR-2018-11-23/pdf/2018-24170.pdf>. [↑](#footnote-ref-3)
4. CMS’ instructions are included in an July 26, 2019 edition of MLN Matters, “Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging – Educational and Operations Testing Period - Claims Processing Requirements,” available at: <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM11268.pdf>. [↑](#footnote-ref-4)
5. Ibid. [↑](#footnote-ref-5)
6. Raven MC, Lowe RA, Maselli J, Hsia RY. Comparison of Presenting Complaint vs Discharge Diagnosis for Identifying “Nonemergency” Emergency Department Visits. JAMA. 2013;309(11):1145-1153. doi:10.1001/jama.2013.1948 [↑](#footnote-ref-6)