January 19, 2016

Tennessee Medical Association
Attn: Katie Dageforde, JD
2301 21st Avenue South
PO Box 120909
Nashville, TN 37212

Dear Ms. Dageforde:

This is in response to your letter December 21, 2015, regarding Tennessee’s application of the 60 percent threshold when identifying physicians eligible during calendar years 2013 and 2014 for enhanced Medicaid primary care payments. You ask that the Centers for Medicare & Medicaid Services (CMS) instruct Tennessee that it should include only claims for physician services in the denominator of the calculation. You indicate that Tennessee’s application of the 60 percent threshold to all claims is not a reasonable construction of section 1202 in that it includes irrelevant ancillary services for purposes of identifying primary care physicians; arbitrarily distinguishes between identically positioned physicians; and is not applied in the same manner as the calculation for the Medicare Primary Care Incentive Payment program (PCIP).

It is CMS’s position that Tennessee is identifying primary care physicians in accordance with the regulation and policy guidance issued by the agency. The regulations specified that physicians would qualify when at least 60 percent of the total Medicaid codes he or she billed were for the specified E&M and vaccine codes. In constructing the formula, CMS understood that physicians’ bill codes for ancillary services and that those codes would be included in the denominator. As stated in the Qs and As on the Increased Medicaid Payment for Primary Care, CMS 2370-F (Set III), “the numerator equals total billed codes for E&M services for the primary specialty, plus vaccine administration services, and the denominator equals the total number of billed codes... a state may choose to use paid billing codes/services in place of billed codes.”

With respect to the PCIP program, CMS explained in its notice of proposed rulemaking on the Medicaid primary care payment (CMS 2370-P) that, while we had looked to the Medicare PCIP program in deciding on a threshold of 60 percent, we were not applying that threshold in the same manner. CMS received only one comment on the threshold and its application and that commenter suggested that there be no threshold at all.
I regret that our response could not be more favorable. Should you have any questions, please contact Davida Kimble, Financial Manager, at 404-562-7496 or via email at Davida.kimble@ems.hhs.gov.

Sincerely,

Jackie Glaze
Associate Regional Administrator
Division of Medicaid and Children’s Health Operations