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October 21, 2011

Steve Larsen  
Deputy Administrator and Director  
Center for Consumer Information and Insurance Oversight (CCIIO)  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9982-NC  
P.O. Box 8016  
Baltimore, MD 21244

Submitted electronically to <http://www.regulations.gov>

Re: Summary of Benefits and Coverage and the Uniform Glossary

Dear Mr. Larsen,

On behalf of the members of the American Podiatric Medical Association, Inc. (APMA), the national organization representing the vast majority of America's foot and ankle physicians and surgeons, I welcome the opportunity to submit comments regarding the proposed rule published on August 22, 2011 proposing the summary of benefits and coverage (SBC) and the uniform glossary.

**Appendix E – Uniform Glossary**

In appendix E, the uniform glossary, CMS proposes a number of definitions. Among these, CMS proposes the following definitions:

- Physician Services- Health care services a licensed medical physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine) provides or coordinates.
- Primary Care Physician- A physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine) who directly provides or coordinates a range of health care services for a patient.
- Primary Care Provider- A physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine), nurse practitioner, clinical nurse specialist or physician assistant, as allowed under state law, who provides, coordinates or helps a patient access a range of health care services.
- Provider- A physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine), health care professional or health care facility licensed, certified or accredited as required by state law.

APMA is concerned that podiatric physicians, also known as podiatrists or doctors of podiatric medicine (DPMs), are not defined as physicians in the uniform glossary and we encourage CMS to remedy this in the final rule. Medicare defines DPMs as physicians, as do a majority of states through state statute. Moreover, according to a recent American Medical Association poll, a vast majority of Americans consider DPMs as physicians. Therefore, by failing to include podiatric physicians in the definition of physician, the proposed glossary terms will undoubtedly cause confusion among health-care consumers. As CMS' intention with the uniform glossary, as stated in the proposed rule, is to allow health-care consumers to compare health coverage options and understand the terms of their coverage, we expect that CMS would wish to be as clear as possible in their language with respect to physician definitions. Including DPMs within the physician definition is necessary if CMS hopes to achieve its goal of consumer knowledge and understanding.

Further confusion is likely to arise from the fact that CMS traditionally employs a broader physician definition that includes podiatric physicians. A podiatric physician is a "physician" as defined in §1861(r) of the Social Security Act. In 1967, two years after Medicare was established, the U.S. Congress amended the Medicare definition of physician to include doctors of podiatric medicine. As recently as 2006, CMS amended the Medicare Conditions of Participation with regards to medical history and physical examination (H&P) to specifically recognize doctors of podiatric medicine and other practitioners among the pool of professionals who may perform H&P, as one example. To avoid confusion and ensure CMS' goal of consumer knowledge and understanding, CMS' definition of "physician" under the uniform glossary must remain consistent with "physician" as it is used more broadly by CMS.

#### **Appendix D – Coverage Examples Calculations**

In appendix D, CMS makes a distinction between physicians and alternative providers. CMS defines the term "physician" as including "primary care, specialist, etc." and "alternative providers" as including "chiropractor, acupuncture, etc." CMS further defines "primary care physician" as "A physician (M.D. – Medical Doctor or D.O. – Doctor of Osteopathic Medicine) who directly provides or coordinates a range of health care services for a patient" and "specialist" as "A physician specialist focuses on a specific area of medicine or group of patients to diagnose, manage, prevent or treat certain types of symptoms and conditions. A non-physician provider is a provider who has more training in a specified area of health."

APMA expects that podiatric physicians will be included in the definition of "physician" and not that of "alternative provider" and requests that CMS clarify this in the final rule. DPMs are recognized as physicians and surgeons, qualified by their education, training and experience to diagnose and treat conditions affecting the foot, ankle, and structures of the leg. The medical education and training of a podiatric physician includes four years of undergraduate education, four years of podiatric medical education at an accredited podiatric medical college, and two or

three years of hospital residency training. Podiatric physicians are licensed by the state in which they practice podiatric medicine.

As indicated above, the need to define DPMs as physicians is well documented. Furthermore, podiatric physicians are specialists as they are defined in appendix D. As with other specialists, DPMs are physicians who focus on a specific area of medicine or group of patients to diagnose, manage, prevent or treat certain types of symptoms and conditions. Further, podiatric physician engage in a rigorous curriculum of medical education and residency training on par with their MD and DO colleagues.

### **Appendix B-1 and B-2 – Instructions**

In appendix B-1 and B-2, CMS provides instructions for group health plans and individual health insurance plans, respectively, to use in completing the SBC template. Both require that “routine foot care” must be listed as either 1) a service your plan does not cover; or 2) other covered services.

APMA seeks clarification on CMS’ use and definition of “routine foot care.” If routine foot care includes routine foot examinations, APMA would recommend that it be classified as an essential service, or at least as a “service you may need,” rather than as a “service your plan does not cover” or “other covered service.” Routine foot examinations are a medically necessary and valuable service. An individual’s feet often reveal indicators of that individual’s overall health. The feet are affected by chronic diseases leading to decreased mobility and disability for individuals already in poor health. Furthermore, the connection between chronic diseases and foot pain is not coincidental. Foot pain, regardless of its cause, can limit the mobility of individuals and contribute to a more sedentary lifestyle and the onset of numerous chronic conditions. Indeed, a 2010 survey by APMA found that Americans who had foot pain were much more likely to experience problems in other areas of the body. Specifically, 65% of Americans who were overweight experienced regular foot pain, 32% with foot pain also had circulatory problems, and 20% of Americans with foot pain suffered from heart problems. Additionally, a recent study conducted by Thomson Reuters indicates that foot and ankle care furnished by podiatric physicians improves patient health and has a positive return on investment. According to the study, patients with diabetes presenting with foot ulcers who see podiatrists are less likely to suffer hospitalization or amputation than patients who had not received care from a podiatrist. The study found that each dollar invested in care furnished by podiatric physicians offers the payer up to \$51 in savings. CMS must ensure that consumers have access to the expert foot care they need by classifying routine foot care as a service you may need.

If, by routine foot care, CMS is referring to services that normally are considered routine by CMS and not covered by Medicare including the following:

- The cutting or removal of corns and calluses;

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- The trimming, cutting, clipping, or debriding of nails; and
- Other hygienic and preventive maintenance care, such as cleaning and soaking the feet, the use of skin creams to maintain skin tone of either ambulatory or bedfast patients, and any other service performed in the absence of localized illness, injury, or symptoms involving the foot.

APMA would suggest that these services should also be classified as a “services you may need” or “other covered service,” under the exceptions that Medicare and other health plans traditionally allow, such as necessary and integral part of otherwise covered services (e.g. diagnosis and treatment of ulcers, wounds, or infections); and the presence of systemic conditions (e.g. diabetes, neurologic, or peripheral vascular disease). In these instances, certain foot care procedures that otherwise are considered routine may pose a hazard when performed by a nonprofessional person on patients with such systemic conditions.

Thank you for the opportunity to provide input on this proposed rule, and we hope the above comments are helpful. If you have any questions regarding our comments or need more information, please contact Scott Haag, JD, MSPH, Director of APMA’s Center for Professional Advocacy & Health Policy & Practice, at 301-581-9233 or via e-mail at [slhaag@apma.org](mailto:slhaag@apma.org).

Sincerely,

A handwritten signature in blue ink that reads "Michael King, DPM". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael King, DPM  
President