



*Advancing Excellence*

**College of American Pathologists**  
**Statement to the**  
**Practicing Physicians Advisory Council**  
**On Medically Unbelievable Edits**  
**May 22, 2006**

College of American Pathologists  
Division of Government and Professional Affairs  
1350 I Street, NW, Suite 590  
Washington, DC 20005  
(202) 354-7100  
(202) 354-7155 – fax  
(800) 392-9994  
[www.cap.org](http://www.cap.org)

The College of American Pathologists welcomes the opportunity to comment on CMS's current Medically Unbelievable Edit (MUE) proposal. The College of American Pathologists is the national medical specialty society for pathologists, representing more than 16,000 physicians who practice anatomic and/or clinical pathology. College members practice their specialty in independent laboratories, academic medical centers, research laboratories, community hospitals and federal and state health facilities.

We first want to thank CMS for their recent willingness to discuss directly with us our concerns with the current proposal. We are also eager to hear from CMS about the proposed changes to the MUE proposal at today's PPAC meeting. We expect CMS testimony to confirm the recognition expressed by CMS officials in recent public forums that the current MUE proposal may have gone beyond its intended goal of reducing clearly erroneous billing errors and abusive practices.

We have consistently stated in our correspondence with CMS that we would like to provide useful comments, but to do so we need clarification on a number of important issues. These include the rationale and methodology for current edits and the policy for overriding modifier use and appeal. In addition, we have suggested that not all pathology and laboratory services may be candidates for MUE's. Many of these services are unit coded for the reason that their provision is based on clinical need, and multiple services may be required in different clinical contexts. Restricting the number of these services for an individual patient is not based on "medical unbelievability," but rather on an arbitrary assessment of probability without regard to actual medical necessity or reasonableness in any individual circumstance.

The College recently met with Kim Brandt, Director of Program Integrity, and Lisa Zone, Deputy Director of Program Integrity, to outline our concerns and recommend some key principles that need to be clarified with respect to the MUE proposal (see below). The response to our concerns from the Program Integrity office was favorable. We anticipate that today's CMS testimony confirms changes based on these discussions, but we are still awaiting written notification from CMS or its contractor. We believe it is important that PPAC advise CMS of its agreement with the proposed changes, and urge the agency to notify the medical community of them promptly.

**Specifically, we ask PPAC to recommend to CMS to provide the following guidance to medical societies:**

- **The current MUE proposal will not be granted default status, contrary to earlier instructions from the contractor.**
- **All CPT codes do not require an MUE.**
- **MUEs will be phased-in over time.**
- **CMS will define ground rules specifying the criteria for edits, the use of overriding modifiers, the rights of appeal by individual providers, and the process for periodic review and revision of existing edits.**
- **Based on these ground rules, additional CPT codes may be added over time through a process of consultation and deliberation among interested parties, the contractor, and CMS.**

The College of American Pathologists appreciates the opportunity to discuss our recommendations regarding MUEs and we thank CMS for their responsiveness to our concerns. The College looks forward to working with CMS on these and other important issues. Thank-you.