November 10, 2010

Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Medicare Participation/Non-Participation Status Deadline Extension Request

Dear Administrator Berwick:

On behalf of the undersigned organizations, we would like to express our concern regarding the upcoming deadline for physicians to modify their Medicare participation status. We request that the deadline be extended from December 31, 2010, until a time when Congress and the Administration are able to settle on a physician payment update for the **entirety** of 2011.

Currently, the conversion factor is $36.8729, which is 3.6 percent less than the conversion factor in 2001. Unless Congress acts, the conversion factor will be reduced to $28.3868 beginning December 1, 2010, with an additional reduction to $25.5217 projected for January 1, 2011, and the anesthesia conversion factor would be similarly reduced. The December 1, 2010, cut and the January 1, 2011, cut would result in a total reduction of 24.9 percent of the current conversion factor. At the same time, the cost of practice, as measured by the Medicare Economic Index, would have increased by 23 percent since 2001.

Patients and physician practices continue to suffer from the lack of certainty over reimbursement, making Medicare practice management decisions challenging. In addition, physicians' participation status decisions are binding throughout the calendar year, and physicians who opt out of Medicare are not allowed to submit claims to Medicare for any of their patients for a two-year period following the opt out decision. Without more clarity regarding Medicare payment rates, it will be difficult for physicians to make informed decisions about their contractual relationships with the Medicare program and with other payers.

In light of this climate of uncertainty over whether physicians will experience a substantial pay cut and when exactly the cut, if any, will occur, we urge the Centers for Medicare & Medicaid Services (CMS) to extend the December 31, 2010, deadline until it is clear what the physician payment update will be for 2011. This extension would allow physicians to make a more informed decision regarding their Medicare participation or non-participation status and position them to better manage their practices and care for

their patients. Our members are committed to caring for both seniors and disabled Medicare beneficiaries, and CMS should authorize the extension of the deadline as a matter of practicality and fairness.

Thank you for considering our request. If you have any questions about our comments, please contact Bob Jasak. He may be reached at bjasak@facs.org or at (202) 672-1508.

Sincerely,

American Academy of Ophthalmology
American Academy of Otolaryngology - Head and Neck Surgery
American Association of Neurological Surgeons
American Congress of Obstetricians and Gynecologists
American College of Osteopathic Surgeons
American College of Surgeons
American Osteopathic Academy of Orthopedics
American Society of Anesthesiologists
The American Society of Breast Surgeons
American Society of Cataract and Refractive Surgery
American Society of Colon and Rectal Surgeons
American Society for Metabolic and Bariatric Surgery
American Society of Plastic Surgeons
American Urological Association
Congress of Neurological Surgeons
Society for Gynecologic Oncologists
Society of Surgical Oncology
The Society of Thoracic Surgeons
Society for Vascular Surgery

cc: Secretary Kathleen Sebelius