



May 31, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Brooks-LaSure:

The National Uniform Claim Committee (NUCC) and National Uniform Billing Committee (NUBC) are contacting you about ongoing concerns with the implementation of the Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging Services program. While the education and operations testing phase has been extended, we believe more time is needed for health care providers and their software vendors to prepare for the AUC program requirements.

As you are aware, the NUCC and NUBC are Data Content Committees named in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Both committees include a diverse group of health care stakeholders representing providers, health plans, designated standards maintenance organizations, public health organizations, and vendors. Our goal is to promote the development of the data needs reported within a uniform claim for use by the professional and institutional health care communities and transmitted to all third-party payers.

At this time, there are multiple factors that make providers' preparation for compliance difficult. First, physicians, hospitals, other health care facilities, and other individual health care providers continue to divert resources to responding to the COVID-19 public health emergency. While the pandemic appears to be subsiding, the exact status is still unknown. Even after the public health emergency ends, we anticipate that providers will continue to face issues related to the pandemic and other priorities throughout the remainder of 2022, which will detract from their ability to prepare for the AUC program requirements.

Secondly, there remain unresolved workflow and AUC requirements. The industry is awaiting additional guidance from the Centers for Medicare & Medicaid Services (CMS) on several items, including:

- A new modifier to indicate that the provider is not subject to the AUC requirements.
- Information on how the reasons for rejection or denial of claims for missing AUC data requirements will be communicated to the rendering provider.

- Information on how claims not meeting timely filing deadlines will be treated if delays were due to gathering AUC information.
- Clarification on the availability and time period for which a hardship exemption applies.

Thirdly, due to the diversion of resources for COVID-19 and the delay in the start of the AUC program, providers will need to work with their software vendors to ensure that all programming needs are installed and up to date to meet the data reporting requirements. This effort will take time, and providers will need to test these software changes once they are installed or updated.

Finally, another significant concern is the lack of education on the part of CMS on the AUC program and its requirements. The 2022 Physician Fee Schedule proposed rule indicated that only 9-10% of claims submitted with AUC data were correct and would have been paid, showing the lack of awareness of this program. The sizable number of claims that would have been rejected had the payment penalty phase been in effect are concerning, and we remain worried that the industry has not improved to the state at which it is ready to transition to payment penalty. In order to identify the current state of industry readiness, we request that CMS release more current data on the reporting of the AUC data, including the percentage of claims that include some portion of the AUC data and the percentage of claims that include all of the correct AUC data. We also request that CMS further expand its education and outreach efforts through Open Door Forums and targeted messaging. While the CMS website has information about the program and reporting requirements, we are concerned about the general lack of awareness of the program among all providers.

At this time, we recommend that CMS continue the education and operations testing phase for an additional year to give providers the ability to learn more about the program and properly test the various systems involved in querying for the AUC, transmitting the data from the ordering to rendering provider, and reporting the data in the claim. We ask that you continue to assess the readiness of providers through analysis of claims submitted and consider the possible need for additional time to complete testing beyond 2023.

The NUCC and NUBC appreciate your consideration of an additional one-year extension for education and operations testing for the AUC program. The additional time, together with clarifying resources and programmatic outreach, should help smooth the implementation of this complex program. If you have any questions, please contact either Nancy Spector, NUCC Chair, at (202) 789-7489 or nancy.spector@ama-assn.org or Terrence Cunningham, NUBC Chair, at (312) 422-3346 or tcunningham@aha.org.

Sincerely,

/s/

Nancy Spector, NUCC Chair

/s/

Terrence Cunningham, NUBC Chair