



June 2, 2017

Mr. Frank Gorton  
eGlobalTech  
Comparative Billing Report Program  
7127 Ambassador Rd., Suite 150  
Baltimore, MD 21244

Dear Mr. Gorton,

Citizens for Health (Citizens.org), with about 100,000 activist members, supports policies and regulations that offer health consumers choices beyond drugs, surgery and radiation. Many of these additional health options involve medical devices cleared through the FDA 510(k) substantial equivalence review program.

Recently we have been informed that as a contractor for CMS you have sent Comparative Billing Reports to various doctors using and billing Medicare for certain cleared devices based on the Wall Street Journal (WSJ) August 10, 2016, article "Big Driver of Medicare Spending: Doctors Doing More Tests in Their Offices."

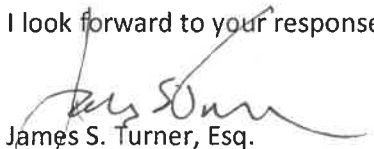
We are concerned that your letters might have, indeed seem to be having, a chilling effect on the availability of medical services using these legal devices. Your letters seem to create a context in which private, unofficial comments by groups such as the Wisconsin Physician Service (WPS), American Academy of Neurology (AAN), and other private businesses and/or professional membership groups represent official CMS policy.

Citizens for Health is deeply concerned about the general problem of entrenched medical professionals using their market power to block the entrance into the health services market of new, better, and less expensive health options. The U.S. Supreme Court addressed this concern in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, 135 S.Ct. 1101 (2015).

While you apparently indicate in your communications to providers that you are not taking any kind of regulatory action, or undertaking actions that will lead to regulatory action, the very mention of the possibility of audits creates a chilling effect on providers of the services about which you are communicating. Patients already seem to be feeling the effects of your pressure on their doctors.

We send this letter in an effort to open communications about the concerns you have about these new devices with the hope that a more collaborative process than announcing your concern to Medicare enrolled doctors can be found to ensure that patients receive proper access to all new medical options.

I look forward to your response and will shortly follow this letter with a phone call.

  
James S. Turner, Esq.  
Citizens for Health Board Chair

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[www.citizens.org](http://www.citizens.org)

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