December 23, 2008

The Honorable Michael J. Astrue
Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-7703

Dear Commissioner Astrue:

Earlier this year at a meeting you held with representatives of the ABA, you asked for the ABA's assistance in developing recommendations on ways to ensure the availability and timely submission of medical records by physicians and health care institutions to the Social Security Administration. At the meeting, you indicated that you would welcome suggestions on how claimants may be able to obtain these critical records as easily and quickly as possible.

Following the meeting with you, we formed subcommittees that looked at different aspects of the problem and developed recommendations on ways to ensure the availability and the timely submission of medical records for Social Security disability claims. Today, I am sending you the suggestions from one of these subcommittees and will send you the suggestions of another subcommittee in the new year.

The subcommittee that I am writing you about today reviewed the laws in effect in each state that govern the charges medical providers can impose for making copies of their records for Social Security and SSI claimants. The subcommittee reviewed extensive research done by the National Organization of Social Security Claimants Representatives relevant to the issue and conducted additional research. It then decided to compile the enclosed chart based on that research. The chart describes the law in each state regarding the costs of obtaining medical records from medical providers. Also enclosed is a binder of the laws referred to in the chart. The information in this chart can be helpful in obtaining copies of medical records because it alerts health care providers to the maximum amount that can be legally charged, or whether to provide copies at no charge. The chart should not be misconstrued as applying to the cost of physicians’ completing medical forms or writing narrative reports.

States have taken a wide range of approaches in addressing this issue. Some states require that medical providers provide copies at no charge to claimants, while others impose a
flat fee or a per page limit to what can be charged. Some states have no statutory limit on copies and providers in these states are limited only by HIPAA restrictions.

We hope that this information will be of help to you. Perhaps it can be distributed, at your discretion, within appropriate offices within the SSA.

While this is but a small contribution on our part, we realize that there is a great deal more to do in this area and will continue to work with you on this process. As we recently discussed, I look forward to getting together in the new year to explore closer collaboration on other issues relevant to the disability claims process, including those relating to administrative judges.

Best regards,

Thomas M. Susman

Enclosure