

## Medicare and Freedom of Choice

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Has the government gone loony? What do you think? Should seniors on Medicare be allowed to pay doctors out of their own pockets if the doctor is no longer accepting "Medicare" patients? What a ridiculous question! Of course they should. "They" are individuals first and Medicare patients second. An American citizen should be able to make a health care choice if they are going to pay for it without the government conferring permission to do so.

Apparently the government doesn't think so, since a federal policy actually prevents seniors from paying personally for services that are covered under Medicare.<sup>1</sup> In fact, a doctor who accepts payment for services directly from a Medicare patient can be accused of committing Medicare fraud, even if the patient does not want Medicare to reimburse them for the service! I must be missing something here, or maybe my common sense is getting in the way of all these politics!

It seems some progress has been made in this direction, since a new law in the Balanced Budget Act's Medicare provisions suggests a method for providers and patients to skip around the old restrictions. It can be done by signing an "approved affidavit" that says "Oh, yes, you can accept direct payment from a patient; in fact, charge them what you want but don't expect to participate in the Medicare program with this or any other patient for two years." This last bit of course makes the whole thing unworkable for most Medicare providers, since the two-year restriction from all Medicare payments affects the practitioner's other Medicare patients as well.<sup>2</sup>

The reason this is necessary, so opponents say, is to prevent doctors from charging such high fees for their services that they eliminate taking any Medicare patients (the Medicare payment kind) in favor of those who can afford their fees. I guess I can see the reasoning there, but on the other hand, if patients pay their fees directly and don't send the bill to Medicare to be reimbursed, doesn't this leave more money for Medicare to distribute elsewhere?

Anyway, to ameliorate the situation, another bill has been introduced by Senators Jon Kyl (R-AZ) and Bill Archer (R-TX): the Medicare Beneficiary Freedom to Contract Act of 1997. This bill would allow doctors to contract with Medicare beneficiaries directly, charge a fair price (on a case-by-case basis) and continue to treat their other Medicare patients without restriction. Now this seems more like it.

Something bothers me, though. What effect will managed care have on all this? Let's say you have a Medicare patient with whom you have individually contracted to provide services for cash. The patient gives up their right of reimbursement from the government and will pay you cash for your services. Down the road, your patient decides to join an MCO (70% of MCOs currently offer Medicare member options, and at the end of 1995 it was estimated that over 3.9 million Medicare beneficiaries had signed up with managed care companies).<sup>3</sup>

The government has been observing how effectively MCOs contain costs and have reasoned that by

offering managed care options in Medicare, the cost of services will decrease, while the quality of care will improve (one hopes). This frees up the government to write checks to MCOs for health care coverage but gets them out of the day-to-day administrative headaches of managing health care. The danger to you will be if a managed care contract with a patient nullifies and eliminates your ability to provide these services and receive these payments.

Even though the chiropractic profession has made recent political strides in the elimination of x-rays and a better fee schedule for Medicare patients, I can only suggest that we keep vigilant and politically active on future Medicare issues. I am currently putting together a list of Internet websites that would be useful for you or your older patients to obtain health related information. Managed care is a huge, dynamic entity and the ramifications of this elephant are not yet clear. They will however, affect us all.

As always, with questions or comments you may send me e-mail at the address listed below. For a copy of the Internet website list, please send a self-addressed stamped envelope to me at AGEMAP, PO Box 1083, Lakeside, MT 59922.

### *References*

1. Findlay S. Elderly call Medicare rule unfair. USA Today November 26, 1997, p. 6A.
2. Medicare private contracting provisions pose problems. ACA Today October 1997, p. 4, 16.
3. Jacobs S, Nelson AM, Wood S. Using research for successful Medicare and Medicaid risk marketing. In: Kongstvedt P (ed.) Readings in Managed Health Care. 1997: pp. 249-257, Gaithersburg: Aspen.

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