

IOWA TRANSPARENCY NEWSLETTER



Sunshine on Medicare Fraud

by Jennifer L. Crull

Medicare is one of the largest entitlement programs that we have in this country. The purpose of the program was to provide health-care coverage to the elderly and disabled. Senator Chuck Grassley issued a statement that “Medicare is a \$500 billion program with billions of dollars going out in error each year.”¹ With that said, this is an area that has been next to impossible to shed sunlight on due to a court ruling from 1979, in which Medicare is prohibited from making physicians’ billing information public.

Medicare was 3.1 percent of the Gross Domestic Product (GDP) in 2010 according to the Congressional Budget Office (CBO). The CBO projects that Medicare will increase to 9.0 percent of the GDP by 2050.² That is a 190 percent increase. With growth like that it is easy to understand why everyone is writing about how the federal government will be broke with the growth of the entitlement programs. Plus, that 190 percent increase is just

Medicare, not Social Security or Medicaid.

While we all know that there is a lot of reform that needs to be addressed with the Medicare program, one of the first steps is transparency concerning the financial reimbursements. When the courts ruled in 1979 that physician payments would not be made public due to confidentiality of the doctor, little did they know that this would open the door to fraud over the years. Right now you have no way of knowing if your doctor is over-billing Medicare or not.

The fraud of the Medicare system was highlighted recently with a *Wall Street Journal* article from December of 2010. This article talked about Dr. Christopher G. Wayne. The article stated that “[he is] known to admirers as the ‘Rock Doc,’ he wears his hair spiked, punk style, and festoons himself with chains, bangles and leather bracelets.”³ Sounds like the typical doctor for the elderly, NOT. The

Wall Street Journal was able to access a database from Medicare with the Center for Public Integrity. This database only contained records up until 2008 and also included only 5 percent of randomly selected Medicare beneficiaries.⁴

After examining the database, the *Wall Street Journal* was able to see that Wayne received more than \$1.2 million from Medicare in 2008. Seem high? Well, it is. Based on an “analysis of Medicare-claims data,” this is “more than 24 times” the average payment from Medicare to a family doctor.⁵ This information, combined with the fact that most of those Medicare claims were for a form of physical therapy which is unusual, made journalists at the *Wall Street Journal* question what was going on. Finally in 2009, Wayne “was placed on heightened scrutiny,” but not before he collected over \$2.6 million between 2007 and 2009 from Medicare. It is important to note that Dr. Wayne has never been accused of fraud by the

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government, even though they placed him on heightened scrutiny.⁶ That is just ONE case, and there are many more that slide through the cracks every day.

When you think about the example from the previous paragraph, it makes you understand why transparency is desperately needed for the Medicare program. That is why Senators Chuck Grassley (R-IA) and Ron Wyden (D-OR) introduced Senate File 756 on April 7, 2011. This bill, entitled "Medicare Data Access for Transparency and Accountability Act," is to amend Title XI of the Social Security Act to make Medicare-claims data available to the public.⁷

The Coalition Against Insurance Fraud lists several disturbing facts on their Website about fraud with Medicare. In 2007, \$10.8 billion was made in improper Medicare payments.⁸ Also, between 2000 and 2007 Medicare paid 478,500 claims that totaled \$92 million to dead physicians.⁹ This type of information is exactly why Senators Grassley and Wyden have introduced this piece of legislation.

The wording of the legislation will require the Secretary of Health and Human Services to "make available to the public claims and payment data of the Department of Health and Human Services related to title XVIII, including data on payments made to any provider of services or supplier under such title."¹⁰ Additionally, this is to

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be implemented by December 31, 2012, for the FY 2012 data.¹¹ The database will:

1. Include the amount paid to each provider of services or supplier under Title XVIII, the items or services for which such payment was made, and the location of the provider of services or supplier.
2. Be organized based on the specialty or the type of provider of services or supplier

- involved.
3. Be searchable based on the type of items or services furnished.
 4. Include a disclaimer that the aggregate data in the database does not reflect on the quality of the items or services furnished or the provider of services or supplier who furnished the items or services.
 5. Identify each provider of services or supplier in the database by a unique identifier that is available to the public (such as the National Provider Identifier of the provider of services or supplier).¹²

Finally, we would be able to search by doctors and by state. This will give patients a better idea about what their doctors are billing for. Plus, it would allow users of the data to alert Medicare of any potential fraud that they see when viewing the data. For we all know that the most watchful eyes are the people in the community in which a doctor or supplier lives and does business.

The Coalition Against Insurance Fraud's Website also stated that "every \$1 the U.S. government invests in combating Medicare and Medicaid fraud saves \$1.55."¹³ Currently, "Medicare spends less than two-tenths of a cent of every dollar in its \$456

billion annual budget on waste, abuse and fraud problems."¹⁴ This database would allow the Medicare administration to receive tips on potential Medicare fraud. This should help the administration cut overall costs.

While we all know that a lot needs to be done to overhaul the cost of Medicare, Senate File 756 is at least a start in the right direction in decreasing the Medicare fraud that is currently going on. This bill has been referred to the Senate Finance Committee. If you would like to track this legislation, you can view information at <http://www.govtrack.us/congress/legislation.xpd>.¹⁵ This is an easy-to-understand Website that allows you to easily track legislation. As this piece of legislation makes its way through the system, please contact our Senators and Representatives about supporting this important piece of transparency legislation that will help raise the veil on the Medicare expenses.

Endnotes

¹ Joe Eaton, "Grassley, Wyden introduce bill to make Medicare data public," The Center for Public Integrity, April 8, 2011, <<http://www.Publicintegrity.org/articles/entry/3140/>> article accessed on April 11, 2011.

² "Entitlement Spending Will More Than Double by 2050," The Heritage Foundation, <<http://www.heritage.org/budgetchartbook/entitlement-spending-double>> accessed on April 12, 2011.

³ Mark Schoofs and Maurice Tamman, "Confidentiality Cloaks Medicare Abuse," *The Wall Street Journal*, December 22, 2010, <<http://online>.

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[wsj.com/article/SB10001424052748704457604576011382824069032.html](http://www.wsj.com/article/SB10001424052748704457604576011382824069032.html)> accessed on April 11, 2011.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ “S.756: Medicare Data Access for Transparency and Accountability Act,” Civic Impulse, <<http://www.govtrack.us/congress/bill.xpd?bill=s112-756>> accessed on April 11, 2011.

⁸ “Medicare Fraud,” Coalition Against Insurance Fraud, <<http://www.insurancefraud.org/medicarefraud.htm>> accessed on April 14, 2011.

⁹ Ibid.

¹⁰ “S.756 – Medicare Data Access for

Transparency and Accountability Act,” *The Library of Congress Thomas*, <<http://thomas.loc.gov/cgi-bin/query/z?c112:s756>> accessed on April 14, 2011.

¹¹ Ibid.

¹² Ibid.

¹³ Coalition Against Insurance Fraud.

¹⁴ Jay Weaver, “Medicare agency stymied in quest for ‘a pound of cure,’” *The Miami Herald*, August 11, 2008, <<http://www.miamiherald.com/2008/08/11/636745/medicare-agency-stymied-in-quest.html#ixzz1JtQ15RI0>> accessed on April 14, 2011.

¹⁵ Civic Impulse.

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