

newsday.com/news/columnists/ny-bzsaul5472929nov24,0,4538217.column

Newsday.com

Medicare formula puts hospices in tight squeeze

Saul Friedman

Gray Matters

November 24, 2007

In 1982, Medicare was a pioneer when it decided to cover hospice care for the dying.

Sure, it was meant to save money for Medicare, but it also provided a measure of dignity and pain-free comfort for the terminally ill in the last days of life, and compassionate, practical help for families facing a dark time.

But now the penny-pinching Congress and Medicare's bureaucratic bean-counters are threatening dozens of Medicare hospice programs as well as those supported by private insurers.

The major reason: Patients in hospice care are not dying fast enough and hospice providers are being penalized because too many patients are living longer than six months.

Dozens of hospices owe Medicare hundreds of millions of dollars that many cannot afford to repay. Some hospices are closing, said the nonprofit Center for Medicare Advocacy, while others may be forced to turn patients away because they may last too long.

Still others are limiting care for some patients or refusing to take care of the dying because they might live too long. Says center attorney Terri Berthelot, "Hospices will limit their services to patients who have predictable dying processes, which generally means those with cancer."

Hospice care, part of the relatively recent movement to confront end-of-life issues, calls for providing the most pain-free comfort for terminal patients rather than curative care, treatment, medicines or artificial life support. A patient who enters a hospice program agrees to forgo further life-extending treatment.

Most hospice care is delivered at home, which saves Medicare the costs of hospitalization. And nine of 10 patients prefer to end their days at home with their families nearby.

Under the 1982 law, a person is eligible for hospice care, covered by Medicare (and subsequently most

LIPITOR
atorvastatin calcium
TABLETS

And in clinical studies, LIPITOR lowered bad cholesterol significantly more than generic Zocor® and Pravachol®.

Zocor (simvastatin) is a registered trademark of Merck & Co, Inc. Pravachol (pravastatin) is a registered trademark of Bristol-Myers Squibb.

[Learn more about how LIPITOR compares.](#)

IMPORTANT INFORMATION

LIPITOR is a prescription drug. It is used in patients with multiple risk factors for heart disease such as family history, high blood pressure, age, low HDL ("good" cholesterol) or smoking to reduce the risk of heart attack and stroke. When

PATIENT INFORMATION

private insurers) if a doctor certifies the patient is suffering a terminal illness and is expected to live six months or less. At the time, hospice care was intended to cover mostly cancer patients; the course of their illness was generally predictable.

As part of the effort to control costs and avoid fraud, Medicare audits most hospice programs, but Congress set a cap limiting the annual payment per patient a hospice may receive, plus the time Medicare would cover such care.

The "aggregate hospice cap" for this year, the hospice's total cost divided by the number of patients, is \$21,410.04. And most hospices generally spend less per cancer patient, for the average stay is less than six months.

But today, some cancer patients last longer than six months. And other terminal illnesses, such as columnist Art Buchwald's renal disease, are not as easily predictable; he survived for 14 months.

Thus in 1998, Medicare and Congress decided a patient may stay for unlimited, consecutive six-month periods if the doctor continues to certify his/her impending death. And Medicare administrators have promised that no one so certified will be kicked out of hospice care.

But, despite the new policy of extended care and the admission of many noncancer patients, the 1982 formula was not changed. Under the law, hospices must return to Medicare funds spent exceeding that cap.

Now, according to Oklahoma hospice provider Lois Armstrong, who is the director of the National Alliance for Hospice Access, more than 250 hospices in at least 30 states owe Medicare more than \$200 million for the past several years because they've exceeded the cap.

Armstrong said the payback, due this year, could drive some hospices into bankruptcy and cause others, including some nonprofits, to end services. That repayment policy could backfire and cost Medicare more money for hospitalization, not to mention grief for families and burdens on physicians whose mission is to keep patients alive as long as possible.

A new Duke University study of more than 4,000 patients, divided between those who used hospice and those who didn't, concluded hospice has reduced Medicare spending by an average of \$2,309 per hospice user during their last 72 days of life.

In New York and other northern urban states, there are fewer hospice organizations than in the rest of the country and problems are less severe, so far, mostly because they choose their patients more carefully.

I asked Armstrong if some hospices might be accepting patients prematurely or committing fraud to get Medicare money. But she pointed out that Medicare audits hospices closely and has found few infractions.

Hospice services, said Berthelot, should not be subject to "number-crunching but only to the provision of quality care to the dying."

Armstrong's organization is seeking a moratorium on refunding Medicare or a change in the cap to more closely reflect the changes since 1982 in the kind and number of patients requiring care in the last days of life. Sen. Pete Domenici (R-N.M.) has asked Senate leaders to support a three-year moratorium.

Under pressure from the cap, "a hospice provider," Armstrong said, "has three choices - only take cancer patients who have more predictable prognoses; discharge patients who live too long whether they remain eligible or not; or care for patients who elect the hospice benefit for however long they remain eligible. The first two alternatives deny patients access to hospice care that Congress specifically intended. The cap makes the third alternative a prescription for bankruptcy for many hospice providers."

"No one. Not the doctors, not Medicare can predict how long a patient will survive and need hospice care," she said. "People die in their own time."

Copyright © 2007, [Newsday Inc.](#)