

MEDICARE SCRUTINY

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vast majority of Medicare beneficiaries and payments are under the fee-for-service system. As stewards of the Medicare program, we must take seriously our oversight responsibilities to ensure that Medicare pays efficiently and appropriately for quality care."

The Subcommittee Chairman's calm statement underplayed a growing wave of concern, mistrust and even anger that is currently swirling around these plans. At the top of the long list of concerns is the **19 percent additional cost per beneficiary of providing care through Medicare Advantage plans**, compared to the standard Part B fee-for-service option, through which most Medicare beneficiaries are covered. According to Mr. Stark, 82 percent of Medicare beneficiaries receive their care through traditional fee-for service providers, but make up only 71 percent of benefit costs.

"The goal of the Medicare Advan-

tage private health plans was to foster competition in the Medicare program and thus reduce costs while improving service," said Dr. Gary R. Street, Vice Chair of ICA's Medicare Committee. "By all accounts, the exact opposite has occurred, and what we are facing now is a massive federal subsidy or hand-out to the insurance industry. According to Congressional estimates, eliminating the additional 19 percent cost related to Medicare Advantage plans will save Medicare \$65 billion in the next five years alone."

Likewise, no provider seems to be happy with the Medicare Advantage plan record. According to the American Medical Association (AMA) Board Chair Cecil Wilson, MD, "More than half of the physicians report that their patients in a Medicare Advantage HMO or PPO plan were denied coverage of services typically covered in the traditional Medicare plan, and 84 percent reported patients have had difficulty understanding how the plan works."

Following the House hearing on May 15th, Chairman Stark was very clear

that reductions in the cost of Medicare Advantage plans was "at the top of his list" for changes in Medicare. This initiative will have the emphatic support of stakeholders from the AMA to the American Association of Retired Persons (AARP), as both groups are on record as supporting "cost neutrality" for such plans.

Senate hearing focuses on marketing abuses

The May 16th hearing before the U.S. Senate Special Committee on Aging took aim at misleading, unethical and sometimes outright fraudulent marketing practices. According to Senator Kohl, "The Committee's investigation has uncovered such questionable sales practices as removing seniors from traditional Medicare without their knowledge, signing seniors up for plans they cannot afford, and misleading seniors regarding which physicians and hospitals accept the plan. Too many seniors are paying a terrible price for those frauds, misunderstandings, and outright ignorance. This is simply unaccept-

able." Senator Kohl said.

Current federal law pre-empts states from regulating the sales and marketing practices of the Medicare plans. Medicare beneficiaries cannot seek the help of their state regulatory agency when facing a problem with a Part D or MA plan. They must submit their complaint or concern directly to Medicare, which routinely sends them back to the very plan they are complaining about for resolution.

At the May 16th Senate hearing, Oklahoma Insurance Commissioner Kim Holland told members of the Committee that federal law is impeding the ability of insurance commissioners to protect the elderly who buy Medicare managed care plans. Commissioner Holland said the federal government's failure to adequately regulate Medicare Part D and so-called Medicare Advantage plans "has led to virtual lawlessness in Oklahoma. Unlicensed agents are setting up shop in pharmacies, large retailers, and nursing home lobbies to prey upon seniors' confusion and concern over their medical care coverage... As Insurance Commissioner, I currently have greater authority to address a consumer's problem with pet insurance than I do protecting the half a million Oklahoma senior citizens covered under a Medicare Prescription Drug or Advantage plan," Holland said.

Commissioner Holland's concerns were echoed by representatives from other states and consumer organizations. "Medicare Advantage is one of the most complicated products we've seen," said Wisconsin Insurance Commissioner Sean Dilweg, and "we have found a common theme ... tactics that are high pressure at best or fraudulent at worst. And when it comes to investigating the tactics," he said, "we are simply pre-empted. We don't have the authority over plans."

Based on current law, the Centers for Medicare and Medicaid Services (CMS) has exclusive authority to investigate and discipline plans marketing and selling Medicare advantage products, leaving states only with the power to investigate and enforce violations against individual insurance agents. Abby Block, Director of the Center for Beneficiary Choices at CMS, offered testimony about this federal-state oversight relationship, one which has left a sizable enforcement gap and has exacerbated the problems found by the Committee.

In response to this enforcement gap, Chairman Kohl announced his intention to work with the National Association of Insurance Commissioners and other stakeholders to develop legislation that would give states expanded authority to oversee plans and agents. Kohl also stated the Committee's intention to continue exercising oversight and investigation of the industry and its sales practices. "If more hearings are necessary to hold feet to the fire, we will hold them," said Chairman Kohl. "Cleaning up these marketing and sales practices is a priority of mine. Let me be clear, this issue will not go away after this hearing." Senator Ron Wyden (D-Oregon) was far more blunt, telling the hearing: "We're going to drain this swamp."

ICA has written to Oklahoma Insurance Commissioner Holland thanking her for her leadership and outspoken advocacy on behalf of our nation's most

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3	Sept. 22-23 '07	3
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