Medicare’s Price Supports for Private Plans Should Be Reduced or Revoked

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Representative Pete Stark, who will chair the Subcommittee on Health of the House Committee on Ways and Means when the Democrats take control of Congress in January 2007, will reportedly seek to roll back the dramatic price supports for private insurers participating in the Medicare Advantage (MA) program, enacted as part of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA).¹ This is a good thing. The outgoing Congress has carefully protected these price supports for insurance companies, while simultaneously threatening cuts for providers and price increases for beneficiaries. If one is seeking to protect and strengthen Medicare, rather than gut it, this seems a rather odd strategy. Rep. Stark’s plan to dampen or end price supports is one step in the right direction for those who wish to see Medicare remain a viable and vital program.

Under the MA program, beneficiaries who want both Part A and Part B benefits can opt to receive their services through the intermediary of a managed care organization such as an HMO, or other private health plan, rather than through the traditional Medicare fee-for-service option. Medicare beneficiaries residing where a Medicare Advantage plan operates may receive their services through that plan. In 2006, all Medicare beneficiaries have access to at least one MA plan, except in a handful of states.² The Medicare Advantage options operate, in effect, like a premium assistance system: Medicare pays a capitated rate to private insurers – HMOs, PPOs, private fee-for-service plans, “special needs” plans, and medical savings account plans³ – for each enrolled beneficiary. The beneficiary, in turn, must pay not only the standard premium for Part B coverage to Medicare, but may also need to pay an additional premium to the private insurer, along with any applicable deductibles and/or co-payments required under the private insurer’s plan.⁴

There is no question that the traditional fee-for-service Medicare program is expensive for beneficiaries. MA plans ostensibly provide a more affordable option. The Centers for Medicare and Medicaid Services, in its Medicare literature intended for beneficiaries,

³ See, e.g., CENTERS FOR MEDICARE AND MEDICAID SERVICES, MEDICARE AND YOU, 33 (2006), www.medicare.gov/publications/pubs/pdf/10050.pdf. “Special needs” plans are plans for individuals with certain chronic health conditions, nursing home residents, and dual-eligibles, or those who are eligible for both Medicare and Medicaid. Id. at 100.
presently makes the MA options appear as if they will be cheaper for beneficiaries than the traditional fee-for-service program. However, there is no guarantee that, with respect to each beneficiary, any MA plan will be cheaper than Medicare fee-for-service.

It is by no means evident that MA plans are cheaper because they are more efficient than traditional Medicare. The MMA bolstered private plans available through MA on a number of fronts, but most significantly, it raised payment rates to MA plans so that those rates would total significantly more than costs under traditional Medicare. Previously, private Medicare plans were given a flat fee per beneficiary, and payments were delinked from Medicare fee-for-service. Once the fee began slipping, plans began exiting the market en masse, and enrollment declined accordingly. The MMA sought to rectify this situation by paying Medicare Advantage plans, at minimum, 100 percent of the traditional Medicare fee-for-service rate.

However, many MA plans are in fact paid far more per patient than such patient care would cost via traditional Medicare. The MMA provides for alternate means of calculating the rate that often provide substantially more than the traditional Medicare rate, and stipulates that the method that yields the highest payment should be used. One study accordingly found that in 2005, average costs per beneficiary would total 7.8%, or $546, more in MA plans than in traditional Medicare.

MA plans operating in rural areas receive the greatest subsidy, calculated to average 27 percent more than the cost of caring for a beneficiary under the traditional plan. Certainly, if one wants individuals with Medicare to receive their benefits through a private plan, subsidies would be one way to help ensure plan availability in rural areas. But one must then ask why one is seeking private coverage in these areas, among others. The federal government presumably is interested in providing reasonable medical coverage to seniors and others who qualify for Medicare. Given budgetary constraints, it presumably would prefer to do so via less-, rather than more-costly means. But because most, if not all, Medicare recipients obtain health care equally well, if not better, through the traditional plan than through an MA plan, the subsidies suggest that funneling

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5 See, e.g., CENTERS FOR MEDICARE AND MEDICAID SERVICES, supra note 3, at 32, 33 (stating that “Medicare Advantage Plans (like an HMO or PPO) may offer a lower cost alternative to the Original Medicare Plan”).


8 See Ankur Goel, Daniel Gottlieb et al., Congress Approves Medicare Prescription Drug and Modernization Act of 2003, 20 HEALTH LAW UPDATE 1, 10 (November 26, 2003).

9 See 42 U.S.C. 1395w-23(c)(1)(D) (West 2006).

10 See 42 U.S.C. 1395w-23(c).

11 BRIAN BILES ET AL., supra note 6, at 4.

12 Id.

13 Budget concerns have plagued Medicare nearly since its inception. See, e.g., Medicare and Medicaid, Hearing before the S. Comm. on Finance, 91st Cong. 12 – 19 (1969).
Medicare recipients into private plans is more important than providing services to Medicare recipients or helping to ensure the actuarial soundness of the program.\textsuperscript{14} Conclusions such as this are only strengthened by statements such as that from Michael Leavitt, the Secretary of Health and Human Services, who commented in a different context concerning Medicare that “Democrats say they want the government to negotiate prices. What they really want is government-run health care.”\textsuperscript{15}

Partisan sniping aside, one would hope that what both parties would want is effective, affordable and sound health care for Medicare recipients, no matter what form it might ultimately take. Artificially subsidizing one form of coverage over another, where such subsidies do little if anything to address these issues, is no means to achieve this end.

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\textsuperscript{15} Robert Pear, \textit{Administration Opposes Democrats’ Plan for Negotiating Prescription Drug Prices}, N.Y. TIMES, Nov. 13, 2006 (discussing the Democrats’ proposal to repeal the 2003 law prohibiting the federal government from negotiating Medicare prescription drug prices with drug manufacturers).