

Part B Insider (Multispecialty) Coding Alert

CONCIERGE CARE: Extra Fees For Medicare Patients Don't Pose Problem, GAO Says

But snowballing trend of 'concierge care' could lead to crackdown later

The federal government isn't likely to crack down on "concierge care" any time, if legislators heed one agency's advice.

If you're thinking about charging your patients for extra services, such as same-day appointments or 24-hour personal access to docs, you can take heart from a new report from the **Government Accountability Office** (GAO-05-929). Congress had asked the GAO to study the relationship between Medicare and "concierge care," in which physicians charge patients extra for services that Medicare won't cover.

The GAO found that because relatively few physicians are providing concierge care, it's unlikely to cause access problems for Medicare beneficiaries. Concierge care is mostly a bicoastal phenomenon, and physicians charge anywhere from \$60 to \$15,000 per year for the service, the GAO says.

While the GAO says that concierge care "does not present a systemic access problem to Medicare at this time," the agency left open whether the services could pose such a problem in the future. The agency also noted that some physicians would like more guidance from the **Department of Health and Human Services** on concierge care.

HHS has said in the past that concierge care is acceptable as long as it doesn't violate any Medicare rules, and as long as you don't charge patients for services that Medicare covers. The **HHS Office of Inspector General** caused a stir in March 2004 when it issued an alert saying that one physician, in particular, had charged patients for services such as coordination of care and health assessment, some of which Medicare also paid for.

GAO Doesn't Recommend Action - For Now

The GAO report seemed "pretty harmless," says **Allan Jergesen**, an attorney with **Hanson Bridgett Marcus Vlahos & Rudy** in San Francisco. Providers who were hoping for more guidance will be disappointed, but at least the GAO didn't warn about problems with concierge care.

The GAO's message boiled down to: "It doesn't seem to be broke, so don't fix it," says **John Marquis**, an attorney with **Warner, Norcross & Judd** in Grand Rapids, MI. Congress had asked for this report to see if a legislative fix was needed, and the GAO didn't call for one. The GAO identified 146 concierge physicians nationally, and it's not clear whether 500 or 1,000 concierge physicians would have been enough to worry the agency, notes Marquis.

The GAO report noted that concierge physicians mostly provide services such as same-day or next-day appointments for non-urgent care, 24-hour personal access to physicians via cell phone or e-mail, and periodic preventive care examinations. Some authorities have argued that Medicare already pays for speedy appointments and round-the-clock patient access, notes Jergesen.

But Jergesen says that Medicare only pays for quicker appointments or responsiveness from physicians if such access is "medically necessary." "With some patients, it's not a matter of medical necessity. It's a matter of patient desires," he explains.

"You can't send Medicare a bill just for being available 24 hours a day personally to your patients," says Marquis. There's no CPT code for this, and it would be considered non-covered, he points out.

You can bill your patients for "special services" that Medicare definitely doesn't cover, without risking the wrong kind of attention from the feds, says attorney **Wayne Miller** with the **Compliance Law Group** in Woodland Hills, CA.

The GAO found many concierge physicians continue to bill Medicare and private payors for the services they'll cover. But Miller says some physicians with significant concierge practices are opting out of Medicare altogether to avoid having to worry about double billing.

"This dispute is not going to go away," says Miller. As physicians feel hurt by steep cuts in Medicare reimbursement and increasingly onerous requirements, more will consider charging their affluent patients for more personalized care. They'll just have to be careful to select services that Medicare really doesn't cover, he says.

The issues involved in concierge care aren't easy, says Jergesen. And whatever decision the feds make, "somebody's going to be unhappy, so why not acknowledge the gray area until you have to make a hard and fast decision?" says Jergesen.