



## Medicare Fraud and Confusion

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Alzheimer's disease and Medicare don't mix well. Given Medicare's high level of complexity and the increasing prevalence of Alzheimer's dementia, it's not surprising that fraud and abuse have been estimated to cost Medicare and Medicaid about \$33 billion each year. Medicare fraud is defined as purposely billing Medicare for services that were never provided or received. Some examples of Medicare fraud include:

- Billing Medicare for services or items never performed or utilized.
- Billing Medicare for services or equipment that are different from what the resident actually received.
- Using another person's Medicare card to obtain medical care, supplies, or equipment.
- Billing Medicare for home medical equipment after it has been returned.

Unfortunately, assisted living (AL) residents are often the targets of Medicare fraud. This gives AL providers the opportunity to play an active role in preventing such incidents from occurring.

In a recent Florida Senate hearing, a witness described how she acquired \$7 million by charging \$5 to \$7 for gauze surgical dressings that cost a penny each. In another case, a former nightclub owner revealed that he had made millions after he obtained a Medicare license—without a background check—and proceeded to open a home health agency, charging Medicare \$86 for each home visit while paying the nurses \$16 to \$22 for the service. Another previously reported case involved a physician who made unannounced visits to

patients' homes. The patients assumed that these were social visits, but later learned that Medicare was being billed for home visits. One can easily see how AL residents can find themselves in similar situations if not informed of the risks.

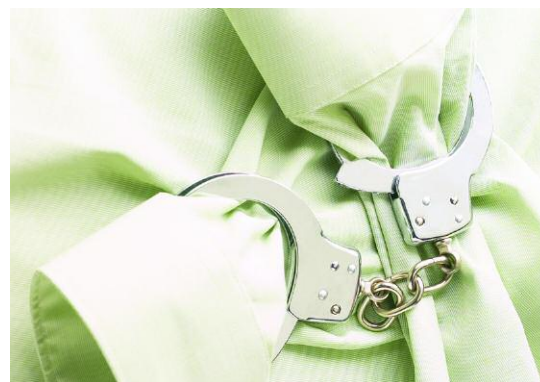
In addition to Medicare fraud being of great concern, the complex nature of Medicare has caused a great deal of confusion over issues, which while not fraudulent, nevertheless still result in increased anxiety and tension among AL residents. As a result, AL residents need assistance in navigating the Medicare process so that they make the right decisions and are not the victims of fraud or wrong choices.

### Medicare Part D Education

Medicare Part D is the latest complexity to affect the Medicare program, leaving many AL residents dazed and confused. Not surprisingly, Medicare beneficiaries have stated that their confusion with regard to Medicare Part D is largely the result of a seemingly limitless number of prescription drug plan (PDP) options, each with variations regarding not only premiums, but also formulary designs, services, and pharmacy networks. On average, AL residents have 40 different PDPs to consider, and comparing these plans is no simple task.<sup>1</sup>

Although competition is intended to improve choices and allow beneficiaries to select a plan that best meets their individual needs, the ability to choose a PDP appropriately is dependent on a knowledgeable consumer. Unfortunately, many

AL residents have some level of dementia, making it impossible for them to evaluate numerous plans without assistance. Compounding this situation, those AL providers



who are most ready and able to assist residents in selecting an appropriate plan are themselves confused about the extent of involvement that the Centers for Medicare and Medicaid Services (CMS) will allow. CMS marketing guidelines seem to indicate that health care providers should not be involved in this process directly, even though a recent Kaiser Family Foundation/Harvard School of Public Health study pointed out that these providers were the sources to whom seniors would most often want to turn to for assistance.<sup>2</sup>

CMS marketing guidelines have caused confusion among health care providers because they seem to imply that clinicians should not be steering patients to a specific plan. As a result, health care providers are under the impression that the only role they may play is to direct their patients to CMS or other sources of general information. In fact, this is contrary to CMS guidelines, which state that physicians may assist patients in making the most appropriate decisions.<sup>3</sup>

Unfortunately, this ambiguity leaves AL residents to sort through the many complex benefit designs and plan options on their own, and increases the likelihood of their making ill-advised choices.

However, many physicians—whom elderly patients identified in the Kaiser Family Foundation study as being their preferred choice for education about Medicare Part D—are poorly equipped for this task. Physicians who could theoretically help Medicare beneficiaries in choosing plans have been so overwhelmed by CMS rules that they are having difficulty guiding their patients into specific plans. In addition, the federal government has provided few educational materials and resources to physicians and other health care professionals to aid in this process. Private companies are attempting to fill the void with educational resources and training sessions for health care providers. The past experiences of AL residents who joined the Medicare discount card program underscore the need for help in enrolling in Medicare Part D, according to a report by the Department of Health and Human Services, Office of the Inspector General (OIG).<sup>4</sup> The report found that most beneficiaries relied on news media or direct mail for information, with only 20% of beneficiaries contacting an information source directly. The report concluded that promotion of Medicare Part D should be increased, making more use of the media and mail.

Despite these deficiencies, the focus thus far has been on the Medicare Web site and a toll-free call-in telephone line. A test by the Government Accountability Office (GAO) on the accuracy of Medicare's toll-free hotline found that 29% of callers obtained inaccurate answers and 10% received no answer at all.<sup>5</sup> Although the goal of CMS is to bring about continued im-

provement and increased participation in Medicare Part D, it may have only a limited effect, as evidenced by the fact that more than 75% of beneficiaries have never gone online and only 8% have ever used the toll-free phone number.<sup>1</sup> Clearly, informative Medicare information needs to come directly from AL providers.

### **Fraud Education**

According to the Federal Trade Commission (FTC), the largest number of complaints to the federal government has involved seniors who have become victims of identity theft. Historically, telemarketing scams have been a major problem, costing society more than \$40 billion per year, with these scams

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most often affecting those over the age of 65. The incidence of identity theft may become even more prevalent as a result of CMS' desire to make marketing of Medicare Part D by PDPs as open as possible. To that end, CMS allows telemarketers to contact Medicare beneficiaries at home from 8 a.m. to 9 p.m. This approach may confuse people and is likely to lead to the unintended consequence of opening the door for new telemarketing scams resulting in identity theft. Beneficiaries may be encouraged to reveal personal information over the phone, and will undoubtedly have difficulty distinguishing authentic telemarketers from scammers.

Beneficiaries can eliminate these

calls if they add their phone number to the FTC's "Do Not Call" registry (1-888-382-1222). They can also do this electronically on the Internet by visiting: [www.donotcall.gov](http://www.donotcall.gov). Although telemarketing "cold calls" are permitted, CMS marketing guidelines prohibit Medicare Advantage plans, PDPs, or their representatives from making door-to-door sales calls or sending unsolicited mail. Therefore, beneficiaries should be instructed that most of the mail they receive regarding Medicare Part D coverage is probably of some value. However, identity theft is especially easy among Medicare recipients because a person's Medicare number and Social Security number are the same. Instead of providing personal information over the telephone, Medicare beneficiaries should give such information only to CMS or representatives whose identity they can verify.

CMS has enlisted the help of law enforcement officials to investigate possible scams in which Medicare beneficiaries are asked for their bank account numbers and other personal information. AL residents need to be regularly informed that their Medicare card should be viewed as their health care credit card. As a result, they need to protect its use as they would any other credit card. Some of the scams that have been used to obtain Medicare numbers illegally include:

- Calling with a variety of offers that require a beneficiary's Medicare number.
- Offering "free" health exams or other health services.
- Offering various health appliances and medical equipment.

Once a Medicare number is obtained, a scammer can skim thousands of dollars from Medicare funds. However, there are actions that can be taken to help eliminate Medicare fraud.<sup>6</sup> Steps that should be promoted within AL residences include warning residents:

- Not to give their Medicare number to anyone over the phone or in person, unless they initiated the contact and know to whom they are talking.
- Not to accept any offer of “free” services or supplies in return for their Medicare number.
- Not to accept a small amount of money in return for “free” screening tests and their Medicare number.
- Not to accept “free” food items or small housecleaning services in exchange for their Medicare number.
- To carefully examine the “Explanation of Medicare Benefits” or “Medicare Summary Notice” (MSN) received from Medicare when claims are paid for health care services, and ask themselves:
  - Did I receive the services listed?
  - Did my doctor order these services?
  - Are the dates of the services correct?
  - Are the dollar amounts shown the same as those on my bill?

Besides safeguarding against the theft of one’s Medicare number, AL residents and staff should be suspicious if a Medicare provider attempts to provide unnecessary services.<sup>6</sup> Some examples of this include Medicare providers telling an AL resident that:

- A certain test is free, and the Medicare number is required only for their records. *NOTE:* For clinical laboratory tests, there is no copayment, and a provider may, in good faith, state that the test is free since there is no cost to the person with Medicare.
- Medicare wants the beneficiary to have the item or service.
- They know how to get Medicare to pay for a service or item.
- The more tests they provide, the cheaper they are.
- The equipment or service is free

and will not cost the beneficiary anything.

Furthermore, AL residents should be suspicious of providers who:<sup>6</sup>

- Charge copayments on clinical laboratory tests and Medicare-covered preventive services, such as PAP smears, prostate specific antigen (PSA) tests, or flu and pneumonia vaccinations.
- Routinely waive copayments on any services, other than those previously mentioned, without checking the beneficiary’s ability to pay.
- Advertise “free” consultations to people with Medicare.
- Claim they represent Medicare.
- Use pressure or scare tactics to sell high-priced medical services

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or diagnostic tests.

- Bill Medicare for services not received.
- Use telemarketing and door-to-door selling as marketing tools.

It is important to note that as Medicare steps up its educational efforts to involve its beneficiaries in the identification of potential fraud, sometimes such efforts can raise the level of concern higher than is realistic. Such was the case with a recent notice sent to Medicare beneficiaries regarding ambulance services. In a flyer intended to assist beneficiaries in recognizing fraudulent practices in the Medicare program, CMS advised beneficiaries to be suspicious of ambulance companies that bill for trips that are not emergency in nature.

CMS later noted that the statement was misleading. Nonemergency ambulance services are covered by Medicare when reasonable and necessary. In a subsequent notice, CMS apologized for any misunderstandings or confusion that may have resulted from the previous statement. Thus, it is easy to see how confusion may arise over Medicare fraud and how AL providers can play an important role in protecting their residents.

### **Reporting Problems**

Besides answering residents’ questions about Medicare fraud, AL providers can play a major role in educating older individuals so that they do not become victims. Education should consist of taking steps to prevent identity theft and encouraging elderly persons to join a plan that provides access to needed medications. CMS could also work to reduce the level of confusion surrounding the number and variety of PDP designs. In 1999, Medicare launched a major campaign to combat fraud under the banner, “Who Pays? You Pay.” In this initiative, Medicare offered classroom training to 10,000 of its beneficiaries and volunteers from the American Association of Retired Persons (AARP). The sessions were intended to show people how to question their health care bills in order to reduce unnecessary spending (eg, making sure that they received the services or products that were paid for and that the doctor ordered, and determining whether the products or services were appropriate for their diagnosis and treatment).<sup>7</sup> Even before that program was unveiled, the Clinton Administration had focused unprecedented attention on the fight against fraud, abuse, and waste in a Medicare initiative called “Operation Restore Trust,” also known as the “Senior Medicare Control Project.”<sup>8</sup> This model has been successful in recovering fraudulently obtained funds, with region-

al centers in various communities providing outreach opportunities for citizens to learn more about Medicare and Medicaid programs.

Today, the Medicare Modernization Act prevents fraud by having CMS work with 8 Medicare Drug Integrity Contractors (MEDICs) that possess specialized skills that enable them to detect fraud, waste, and abuse in the Medicare Part D program. The MEDICs involved are the Delmarva Foundation; Electronic Data Systems, Inc. (EDS); IntegriGuard; Livanta; Maximus Federal Services; NDCHealth; Perot Systems Government Services; and Science Applications International Corporation.<sup>9</sup>

If an AL resident or staff member thinks that Medicare should not have paid for a charge listed on the MSN or suspects Medicare fraud or abuse, the following steps should be taken:<sup>10</sup>

1. Call the health care provider listed on the MSN and enquire about the charge in question. In many cases, it may be a simple billing error, which the health care provider can easily correct.
2. Call the 800 number at the bottom of the MSN. Have the MSN on hand when making the call so that as much information as possible about the charge in question can be provided.
3. If, after speaking with the Medicare contractor about the charge, it appears that the charge is fraudulent, contact a Senior Medicare Patrol (SMP) counselor in the *local HICAP office* (1-800-434-0222). The counselor will obtain the pertinent facts and begin the process of reviewing the concern. If appropriate, the counselor can help forward the case to the proper fraud investigation agency.
4. After meeting with the local SMP counselor, it may be necessary to call the US Department of Health and Human Services, OIG. An OIG SCAMS counselor will help

**Table 1.  
Contact Information  
for Pursuing Cases of  
Potential Medicare Fraud**

<b>Phone</b>	1-800-HHS-TIPS (1-800-447-8477)
<b>Fax</b>	1-800-223-2164 (no more than 10 pages)
<b>e-mail</b>	HHSTips@oig.hhs.gov
<b>Mail</b>	Office of the Inspector General HHS TIPS Hotline PO Box 23489 Washington, DC 20026

determine whether this step is necessary (Table 1).

If an AL resident or staff member attempts to report specific information to prove Medicare fraud, they should remember to provide as much identifying information as possible regarding the specific charge. Such information should include the resident's name, address, and phone number. Details regarding the allegation should include the basics of who, what, when, where, why, and how.

## Conclusion

Medicare fraud and confusion are major concerns that unfortunately are likely to increase as the number of Medicare beneficiaries grows and the dollars associated with services continue to rise. The strategies outlined in this article are meant to help AL residents make more informed decisions and protect them from Medicare fraud and identity theft. Obviously, AL residents are at increased risk of being confused and falling victim to such scams. As a result, AL providers need to be aware of the legal and procedural issues surrounding Medicare fraud and identity theft so that they can add fraud education to the list of services they provide to their residents. **ALC**

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