

Philadelphia Medicine



Volume 99, No. 3

March 2003

Medicare payment: "Fix the Mistake" update

We thank those of you who called Senators Specter and Santorum urging them to vote for Joint Resolution 2 (formerly Joint Resolution 3) to stop the 4.4% Medicare payment cut that was scheduled to go into effect March 1, 2003. Both Senators supported the joint resolution. It is good politics to call both Senators and thank them for their support. As we go to print, the joint resolution went to conference committee where we expect it to pass.

In regard to President Bush's 2004 budget proposal, Dr. Michael D. Maves, Executive Vice President of the AMA, writes the following letter:

"In response to *Medicine's* successful advocacy efforts with the White House and its aggressive campaign to "Fix the Mistake" in the Medicare physician payment rates, President Bush today pledged as part of his 2004 budget proposal to do just that. Although other details of the President's \$400 billion proposal for Medicare modernization have not yet been released, the budget documents include a proposal to adjust the Medicare payment formula to use actual data instead of estimates in current and previous updates.

"The erroneous estimates in the formula were first identified when the 1998 formula seriously underestimated GDP growth for that year. The errors were compounded when the 1999 formula again underestimated GDP and, in addition, omitted the costs of medical care for about one million elderly and disabled Medicare beneficiaries. Since that time, the AMA in conjunction with a coalition of medical specialties and other health professionals has sought redress through the courts, the White House and Congress. The President's budget proposes to fix these mistakes and the documents state that the

corrections would result in higher updates for the next several years.

"The action in the President's budget reflects extensive interaction between the AMA leadership and senior Administration officials at the White House and HHS. Funds contributed by 40 medical specialties and non-MD groups helped develop a compelling case for change and made a real difference in this campaign as did efforts of state and specialty societies that participated in surveys and sent physicians to Washington to make the case that further cuts in Medicare payments pose a real risk for program beneficiaries. Thanks to all the members of the Federation for your relentless pressure on Congress and the Administration to support this critical objective."

Risk retention groups: What you don't know might help you

By Barton L. Post, Esq., Lawrence Kessel, MD, and James Judd, MD

Congress authorized the formation of risk retention groups (RRGs) in 1986 to compete with insurance companies and drive down premium rates. RRGs have since emerged and thrived in many industries and professions, including medicine, law, and accounting. RRGs protect their members in the same way as insurance companies, but they are different in some ways.

RRGs only insure groups whose members do the same kind of work and risk the same kind of liability. Practicing physicians, for example, are potentially exposed to the same kind of liability—malpractice liability. Physician RRGs, therefore, insure only

Please see Risk Retention on page 3

Monthly Luncheons

The PCMS Past Presidents Council continues its series of monthly luncheons open to all members and guests.

The speaker on Thursday, March 6, 2003, at 12 noon, will be **Robert D. Reinecke, MD**, Professor of Ophthalmology, Jefferson Medical College of the Thomas Jefferson University, Director of the Foerderer Center at Wills Eye Hospital and Past President of the Philadelphia County Medical Society. Topic: "Why the Albino Doesn't See Well."

Lunch and parking are free; parking entrance is from 21st Street. RSVP on 215-563-5343, Ext. 102 so we may provide enough lunches.

PCMS Nominating Committee Report

In accordance with PCMS Bylaws, the Nominating Committee has published on the PCMS web site, www.philamedsoc.org, the slate of candidates that it will nominate for office at the PCMS Board of Directors meeting on Wednesday, March 12, 2003. Anyone who wishes to make additional nominations from the floor at that time must file the nominations in writing on the appropriate document prior to the Board meeting. Please call 215-563-5343, Ext. 101 for further information.

Workers' Compensation increases 2% in 2003

Physicians may calculate fees for Workers' Compensation (WC) Part B services performed on or after January 1, 2003, using the new formula, which incorporates the 2% increase. With the 2002 WC Part B fee schedule as the base multiplier, use the following formula: 2003 WC fee schedule = 2002 WC fee schedule x 1.02%.

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ISSN 0031-7306

Philadelphia Medicine is an editorial project management service of Healthcare Media International, Inc. (HMI).

HMI publishes periodicals on medical communications, management, and managed care, and provides contract publishing and medical communication consulting services.

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editorial

The good and bad news about tort reform legislation

By Stephen L. Schwartz, MD



The good news is that some steps toward tort reform have been achieved. The Governor, the State House and Senate, the media and the

public are recognizing that a crisis is present and action is needed to improve the environment for patient access to physicians. Governor Rendell has proposed to lessen the impact of the MCARE legislation but needs legislative support to take money from the insurers' reserves. He has appointed a Task Force, which includes eight physicians, to study and resolve the problem. However, Governor Rendell himself still opposes caps for pain and suffering awards.

The bad news is that these actions are unlikely to prevent substantial physician flight from Pennsylvania, at least in the near term, and will not likely attract new insurers into the state.

The initial achievements in tort reform were largely the result of intense lobbying by the Pennsylvania Medical Society (PMS) and the grassroots efforts of the Philadelphia County Medical Society (PCMS). PCMS will continue its grassroots efforts with the Physicians for Quality Care (PQC) initiated by the Jefferson

Health System, the Politically Active Physicians Association (PAPA) founded by James Tayoun, DO, the Philadelphia County Osteopathic Medical Society, The Cincinnatus Society, the Medical Society of Eastern Pennsylvania, other county medical societies and the Pennsylvanians for Patient Access (PPA).

We need to move forward to complete the tort reform process. We need the support of every physician in Philadelphia. PMS will be our most effective advocate. The Philadelphia County Medical Society is the most effective advocate for representing the interests of those physicians who practice in Philadelphia, especially those affiliated with a university system.

We thank you for your membership. Without you, we can do nothing. However, you should not let your peers take a free ride on your coattails. Urge them to join the fight today.

Physicians who have never been members or were members in 2000 or before but are not now members, may join both PCMS and PMS for 2003 for \$95.00. Should you have any questions or comments, you can e-mail me at stat@philamedsoc.org or leave me a message on 215-563-5343, Ext.102.

Dr. Schwartz is President of PCMS

Independence Blue Cross and Delaware Valley Healthcare Council team up for patient safety

The Delaware Valley Healthcare Council (DVHC) and Independence Blue Cross (IBC) have announced a new collaborative project to enhance patient safety at area hospitals,

IBC will contribute \$750,000 to DVHC's Health Care Improvement Foundation to support the completion of DVHC's Regional Medication Safety Program for Hospitals, including the performance of on-site medication safety reviews at area hospitals as well as the production of medication safety training videos. The Regional Medication Safety Program for Hospitals has been recog-

nized nationally by the Joint Commission on Accreditation of Healthcare Organizations as one of the top five collaborative patient safety programs in the US addressing this issue.

G. Fred DiBona, Jr., President and CEO of Independence Blue Cross, said: "Our support will help area hospitals to implement the program's objectives by supporting a team of experts who review each hospital's medication safety efforts and, more importantly, assess where they may need further assistance in meeting the highest standards of quality care."

Risk retention *from page 1*
practicing physicians.

Another difference is that RRGs insure only their owners, also called "member-owners." Joining a RRG therefore requires you to contribute capital to the group as well as pay an insurance premium. Member-owners of certain RRGs can withdraw their capital after a fixed period of time, or use it toward purchasing "tail" coverage.

Since RRG members are also owners, it would seem they risk personal financial exposure if the group's funds are insufficient to make a payout. But this has never happened to member-owners of a physician RRG, according to industry sources.

An RRG can curb this possibility by purchasing a reinsurance policy

Since RRG members are also owners, it would seem they risk personal financial exposure if the group's funds are insufficient to make a payout. But this has never happened to member-owners of a physician RRG, according to industry sources.

from a reinsurance company. Covered by reinsurance, an RRG can protect itself from unusually large losses, and pass this additional financial protection on to its members.

Before joining an RRG, questions you might ask include:

- **Competitive combined rates.** Are the RRG's combined premium and capital contribution rates competitive with the premium-only rates of insurance companies? These rates, combined, should be competitive.
- **Finite capital contribution.** Does the RRG require single or multiple capital contributions? Some RRGs require a one-time-only contribution, but others require multiple contributions over several years, sometimes on an unpredictable, as-needed basis.

- **Reinsurance.** Does the RRG have reinsurance? Reinsurance is simply insurance for the group as a whole. Reinsurance protects the group against unusually large losses, providing group members additional financial protection and stability.
- **Tail coverage.** Will the RRG apply your capital contribution to your eventual purchase of tail coverage? For the day when you retire or move, make sure you can opt to "recycle" your capital contribution into a premium payment for tail coverage.
- **Integrated Internal Management.** Does the RRG integrate claims, legal, and underwriting expertise into its internal management team? An integrated internal management team is more effective and convenient to work with than outsourced management service providers.

Barton L. Post, Esq., a veteran malpractice defense attorney, is a founder of the reinsurance-backed risk retention group, Professional Risk Retention Group, Inc. He may be reached at 610-499-9300 or Bart.Post@ProfessionalRRG.com.

Lawrence Kessel, MD, is a primary care physician practicing in Philadelphia, where he is the managing partner of an internal medicine/geriatric medicine practice group. He may be reached at 215-482-2336 or shirlelarry88@yahoo.com.

James Judd, MD, is a primary care physician practicing in Hatboro, where he is the managing partner of Hatboro Medical Associates. He may be reached at 215-675-1516 or jrdmj@aol.com.

Change of address?
Call 215-563-5343, Ext. 102
with any change of address,
phone or fax number or e-mail
address.

Why caps on awards are urgent

Use the following points to emphasize the vital importance of reasonable limits on non-economic damages as a key part of fundamental medical liability reform:

- Senate Bill 50 in Pennsylvania and HR5 in the US Congress would permit reasonable limits to be placed on non-economic damages, but would not limit plaintiffs' recovery for lost income, medical costs and other expenses.
- Since January 2001, more than 900 Pennsylvania physicians have closed their practice, moved out of state, or refused to do high-risk procedures.
- In Pennsylvania, medical liability rates for some high-risk specialties jumped a whopping 77% in 2001. But, a federal study shows, in states with caps on awards, these same rates jumped only 12-15%, on average that year.
- One expert analysis of legislation pending in New Jersey predicts a \$250,000 cap would lower doctors' insurance premiums by about 6% a year.
- Outlandish awards, such as the recent \$8.2 million award from a Philadelphia jury in a torsion case, might make a few personal injury lawyers rich. But for all other Pennsylvanians, awards like this do nothing but drive up the costs of health care while failing to fix a medical procedure.
- In California, where damages were capped in 1975, medical liability rate hikes have been far less severe, at about 20% in 2001.
- California citizens are protected because trauma centers stay open, hospital units continue to function, ambulance crews keep operating, and their access to healthcare is stable.
- Victims of medical errors in California benefit because they receive appropriate compensation sooner—the time to settle in California is 23% shorter than in states without a cap. The cost to settle is only half as much (53%) as in other states.

pcms people



Liane Sher, MD, physiatrist at Magee Rehabilitation Hospital, has been granted Subspecialty Certification in Spinal Cord Injury Medicine by the American Board of Physical Medicine and Rehabilitation.

Dr. Sher is the Attending Physiatrist and Medical Director, Magee at Methodist, and serves as consultant to Methodist Hospital and Methodist Hospital Nursing Center.

She is also Clinical Instructor, Consultant, Department of Rehabilitation Medicine at Thomas Jefferson University Hospital.



Satoshi Furukawa, MD, has been named section chief of cardiothoracic surgery at Temple University Hospital and School of Medicine. He is a leader in

the fields of mechanical cardiac-assist devices, heart and lung transplantation, and lung-volume reduction surgery.



Darlene Forth, MD, of Jefferson Medical College, Class of 1995, has started a solo practice in physical medicine and rehabilitation at Graduate Hospital.

Donna Barbot, MD, has been hired as director of the Graduate Hospital breast Center at Graduate Hospital. She had been clinical professor of surgery at Thomas Jefferson University.

Leonard G. Gomella, MD, has been named chairman of the Department of Urology at Jefferson Medical College.

Dr. Gomella is a professor of prostate cancer and director of urologic oncology at Jefferson's Kimmel Cancer, and will serve as chairman of urology at Thomas Jefferson University Hospital.

PCMS people wanted!

Your colleagues would like to know what you're up to. Send news about academic or other appointments, achievements, awards, promotions, etc. to:

Philadelphia Medicine
2100 Spring Garden Street
Philadelphia, PA 19130

The Philadelphia County Medical Society Membership Committee cordially invites you and your family to attend our
Ice Skating Social in Celebration of Doctor's Day
Saturday, March 29, 2003, 7:30 – 10:00 PM
(light buffet)

The Philadelphia Skating Club, 220 Holland Avenue
Ardmore, PA

NO CHARGE for you and your guests
In order for us to make proper arrangements,
RSVP the number of people that will be attending on
215- 563-5343, Ext. 113.

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