

## **What physicians need to know about their public Medicare payment data By Catherine I. Hanson, Of Counsel, Whatley Kallas LLP.**

### **What has the government made public?**

In an historic reversal of policy, on April 9, 2014, the Centers for Medicare and Medicaid Services (CMS) released extensive information about the payments it made to physicians and other providers of Part B Medicare services. The public release includes every person or organization that billed for these services in 2012 – over 880,000 providers. The information is posted for download on the CMS website at [www.cms.gov](http://www.cms.gov) in a section entitled “Medicare Provider Utilization and Payment Data.” It includes all the following data fields for 100% of the calendar year 2012 final-action, physician/supplier Part B non-institutional line items for the Medicare fee for service population:

- Biller demographic data: 1) NPI number; 2) last or organization name; 3) first name; 4) middle initial; 5) credentials (license type); 6) gender; 7) entity type (Individual (I) or Organization (O)); 8) street address; 9) street address 2; 10) city; 11) zip code; 12) state; 13) country; 14) provider type (specialty)
- Medicare participation indicator (Y/N)
- Place of service (Facility (F)/Outpatient (O))
- HCPCS (CPT) code and HCPCS description
- Line service, unique beneficiary and distinct beneficiary/per day service counts
- Average Medicare allowed amount and standard deviation Medicare allowed amount
- Average submitted charge amount and standard deviation average submitted charge amount
- Average Medicare paid amount and standard deviation Medicare paid amount

For those who don't want to wade through these enormous spreadsheets, the Wall Street Journal has posted an easier to navigate – although less complete – database. It is available at <http://www.projects.wsj.com/medicarebilling/>. This database includes physician or other provider name, address, specialty and total Medicare payment amount, and then a drill down screen showing the number of each procedure billed by CPT/HCPCS code, the average Medicare payment amount for each service, and the total paid for each service type in 2012.<sup>1</sup>

### **How hard is it to figure out what I was paid?**

It takes only a few seconds to look up any physician or other Part B Medicare provider and find out what the government is reporting Medicare paid them, and for what services. It is also easy to see how the top physicians or other health care providers in the aggregate - or in a particular specialty - rank in terms of total Medicare payments. And it is equally easy to do this search by state or city.

---

<sup>1</sup> To protect beneficiary identity, only services involving at least 11 beneficiaries are included.

Thus, your patients, your competitors, the managed care plans that you contract with, your former or current employees, your friends, your enemies, the press, indeed, anyone and everyone is now privy to your Medicare billing practices. To make matters worse, this is just raw claims data. Without any way to put this data in context, the potential for viewers to misunderstand this raw data is significant.

### **What physicians should do?**

Most importantly, review your data! This is not the time to put your head in the sand. The “transparency” genie is not going back in the bottle – ever. And of course, where Medicare goes, private payers usually are not far behind.

As discussed below, there are a number of steps physicians can and should take to protect themselves from the potential adverse consequences of this publicity. But if you don't know what has been published about you and where you really rank in comparison to similarly situated physicians in your specialty or sub-specialty, you can't protect yourself.

The first step is to look at your numbers and confirm whether they are correct. Historically, there have often been major data errors in databases of this type. If CMS has it wrong, you should get the information corrected as soon as possible.

### **What do I do if I'm not listed?**

There are a number of reasons why you might not be listed. Assuming you treated Medicare patients in 2012, the two most common reasons you won't be listed are either because your services were billed under a group NPI and Taxpayer Identity Number (TIN), or because all your patients were covered by Medicare Advantage. The database only includes fee-for-service Medicare payments – services provided to the 27% of the population covered by Medicare Advantage in 2012 are not included.

Again, if there is a mistake and you should have been included, you may want to start by reviewing and updating your listing in the National Plan & Provider Enumeration System at <https://nppes.cms.hhs.gov/NPPES/Welcome.do>, and then contact CMS. If you were not included and your patients are asking why, you may want to work with the organization that billed on your behalf to develop an appropriate public response. Among other things, your employer will want to answer questions and allay any fears your patients or potential patients may be expressing. For example, where evidence suggests that physicians should perform at least a certain minimum number of a specific procedure to obtain optimal outcomes, you may want to be able to demonstrate that you met that threshold.

### **What do I do if the numbers are correct, but the impression they convey is misleading?**

There are many reasons why the numbers may give your patients or the public the impression that you are making a lot more money from Medicare than others in your specialty, or than you are taking home. Those reasons may include, among others:

- Others bill under your provider ID, such as physician assistants or nurse practitioners.
- You have been mis-categorized, and actually practice in a different specialty or subspecialty than the one that is listed.
- The services you provide include expensive drugs or other services that you pay for, like chemotherapy drugs.
- Fee-for-service Medicare patients comprise a larger than average portion of your practice (you don't see many patients covered by Medicare Advantage, commercial health insurance or other programs).
- Your particular patient population is sicker than average because you are a subspecialist, or otherwise handle more complex patients.
- Your overhead is substantial – the public generally has no idea that most physicians spend 50% or more of their gross income by the time they pay for their staff, rent, equipment, supplies, health information technology, professional liability insurance, professional licenses, certifications and continuing medical education, education loans, etc.

You may want to develop an explanation you can share with your patients, referral sources, managed care plans, regulators or the press that puts this information in perspective. To the extent the data demonstrates your extensive experience with a particular procedure, you may want to point that out. You can also reference the things that make your practice stand out, like state of the art equipment, foreign language competencies, extended hours, etc. You may also want to take this opportunity to highlight your professional qualifications, including, but certainly not limited to, successful participation in the government's e-prescribing, electronic health record (EHR) meaningful use or PQRS programs. Finally, take this opportunity to review your profile on CMS' Physician Compare website at <http://www.cms.gov/physiciancompare>. Make sure that website contains your up-to-date demographic information and correctly reflects your accomplishments.

### **What should I do if my numbers concern me?**

Physicians should use this opportunity to look at their data in comparison to their peers. While it may be justifiable for a physician to be an outlier, there is no question that outlier status invites scrutiny. These now publically available spreadsheets have dramatically upped the stakes. There are experts who have analyzed the entire public database and can tell you where you rank by specialty and locality, and whether your data raises particular red flags. You owe it to yourself to know where you stand and take charge of your profile.

*Catherine I. Hanson, formerly AMA vice-president for State and Private Sector Advocacy, is currently practicing law with the nationally recognized health law firm of Whatley Kallas LLP. With an office in Aspen, Colorado, WhatleyKallas LLP's attorneys are skilled and experienced in addressing physician billing, payment, recoupment and fraud and abuse issues. You can contact them at 1-800-745-8153 or by email at [info@whatleykallas.com](mailto:info@whatleykallas.com).*

**NOTICE: The information provided in this article constitutes general commentary and information on the issues discussed herein and is not intended to provide legal advice**

*on any specific matter. This article should not be considered legal advice and receipt of it does not create an attorney-client relationship.*