

MEDICARE PAYMENT ADVISORY COMMISSION

PUBLIC MEETING

The Horizon Ballroom  
Ronald Reagan Building  
International Trade Center  
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Thursday, November 5, 2015  
10:13 a.m.

COMMISSIONERS PRESENT:

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P R O C E E D I N G S

[10:13 a.m.]

1  
2  
3 DR. CROSSON: Okay. I think we're ready to begin  
4 the morning session.

5 We are going to go back over our work on sharing  
6 risk in the Medicare Part D program. This is part of our  
7 ongoing work on the cost of pharmaceuticals. Even though  
8 this is not directly focused on the pharmaceutical industry  
9 itself, it is in fact focused on the plans. I think our  
10 feeling in the past has been that there could be some  
11 improvements in the market dynamics between the plans and  
12 the suppliers and manufacturers of drugs, and so we're  
13 going to be focusing in here on the question of whether or  
14 not the current risk mitigation mechanisms, which were put  
15 in place when the Part D bill was passed, are what we want  
16 today or whether or not there should be some changes made.

17 We're going to have Rachel and Shinobu take us  
18 through this part of the deliberation, and my hope is that  
19 at the end of this session, we have a clearer idea and  
20 perhaps a more specific idea about where the Commission  
21 would like us to go.

22 MS. SUZUKI: Good morning. Today we will continue

1 our discussion from the last cycle about whether changes to  
2 Part D's risk-sharing arrangements might better serve the  
3 program by encouraging plans to manage drug costs more  
4 effectively while ensuring access.

5 In this presentation, we'll quickly review some  
6 of the main points from our June 2015 chapter, going over  
7 patterns of Medicare's payments to plans we've observed  
8 through 2013.

9 Next, we will present new data for 2014 and  
10 discuss effects of drug prices on program spending.

11 Then we begin our discussion of potential policy  
12 changes. The focus here will be on providing plans with a  
13 stronger incentive to manage drug spending through  
14 increased risk exposure, while at the same time also  
15 providing them with more tools and flexibility to manage  
16 spending.

17 We will end the presentation by laying out  
18 potential policy options. We will be looking for your  
19 guidance on the next steps.

20 This slide is a reminder of the ways in which  
21 Medicare shares risk with private plans. The direct  
22 subsidy is the capitated payments for the portion of the

1 benefit in which the plan sponsors bear insurance risk.  
2 Because of this, they have an incentive to manage the drug  
3 spending and use, and keep the premiums low.

4           The direct subsidy is risk adjusted to offset the  
5 incentives for plan sponsors to avoid higher cost  
6 beneficiaries.

7           Medicare pays individual reinsurance for each  
8 plan enrollee with drug spending above Part D's  
9 catastrophic threshold. This is essentially an open-ended  
10 payment with Medicare covering 80 percent of the cost above  
11 the catastrophic threshold. While this counters plans'  
12 incentive to avoid high-cost beneficiaries, it's the one  
13 area where cost has been growing rapidly.

14           Finally, Part D has risk corridors to protect  
15 against unanticipated costs. The corridors are symmetric  
16 so that they limit plans' losses and profits.

17           As we consider changes to Part D's risk-sharing  
18 arrangement, it's important to keep in mind how these  
19 changes interact with Part D's low-income subsidy.

20           Here is a quick overview of the subsidy. It's  
21 available to beneficiaries at or below 150 percent of the  
22 poverty and provides premium and cost-sharing subsidies.

1           The law sets a nominal copay amount, and they do  
2 not have a coverage gap.

3           In 2013, 12.4 million, or about one-third of  
4 beneficiaries, received the low-income subsidy.

5           Most are enrolled in stand-alone PDPs.

6           Those who receive the low-income subsidy tend to  
7 have higher spending compared to other beneficiaries. In  
8 2013, spending averaged \$377 per month among the low-income  
9 subsidy beneficiaries compared with \$179 per month for non-  
10 LIS beneficiaries.

11           In addition to the low-income subsidy, sizable  
12 portions of the direct subsidy and reinsurance are also for  
13 this population. When combined, spending in 2013 for low-  
14 income subsidy enrollees totaled about two-thirds of total  
15 program spending.

16           This table shows the per capita spending for  
17 basic Part D benefits for the 2007-through-2013 period.

18           Average enrollee premium, shown at the top, has  
19 remained relatively stable, particularly during the last  
20 four to five years.

21           The next two rows show that plan sponsors had  
22 been less successful at controlling cost growth when they

1 faced less risk. The amount of spending on direct subsidy  
2 has been going down, while the Medicare's payments for  
3 reinsurance has grown by nearly 10 percent per year, on  
4 average.

5 This is the subsidy where plans are not at risk,  
6 and it's growing much faster than the other spending for  
7 which they take risk.

8 We also observed that prior to 2014,  
9 reconciliation payments showed a regular pattern. For the  
10 majority of sponsors, Medicare ended up paying out more  
11 individual reinsurance money to the plans when they  
12 reconciled the payments. The positive amounts in yellow  
13 mean Medicare paid the plans; that is, the plan sponsors  
14 underestimated how much of their covered benefits would  
15 fall in the catastrophic part of the benefit.

16 The reconciliation data also show that in each  
17 year since Part D began, plan sponsors have, in the  
18 aggregate, paid Medicare back through risk corridors, shown  
19 in green, because sponsors overestimated the rest of the  
20 benefit spending.

21 Just to summarize, at reconciliation, Medicare  
22 paid most plans more for reinsurance because they bid too

1 low on catastrophic spending, and then the plans paid  
2 Medicare a portion of the additional profit they made  
3 through risk corridors because their bids were too high on  
4 the rest of benefit spending.

5 The growth in Medicare's payments for reinsurance  
6 is closely related to the growth in drug prices, and I'll  
7 come back to this point shortly.

8 Over the past year, growth in prices for existing  
9 drugs, both generic and brand-name drugs, and high-launch  
10 prices for new therapies have become a major concern. The  
11 pipeline of potential new therapies increasingly includes  
12 biologic agents that tend to have high prices. Many of  
13 those high-cost therapies have no therapeutic substitutes,  
14 which means that plan sponsors have little leverage to  
15 negotiate rebates and discounts with drug manufacturers.

16 For these drugs, putting more risk on plans may  
17 simply translate into higher enrollee cost sharing or  
18 premiums because, in many ways for these drugs, plans are  
19 price takers. This is why a policy that Rachel will be  
20 discussing combines a policy that shifts more risk to plans  
21 with policies to give plans more tools and flexibility.

22 Medicare trustees estimated in their most recent

1 report that came out in June that reconciled payments would  
2 show a different pattern for 2014. In that report, they  
3 estimated that they would make more than \$13 billion in  
4 reconciliation payments to plans, of which \$9.9 billion  
5 would be additional payments for reinsurance and \$2.3  
6 billion would be payments for additional low-income cost-  
7 sharing subsidy. Both are much higher than the amounts  
8 Medicare's paid out in the past at reconciliation.

9           The trustees also estimated that Medicare would  
10 make aggregate risk-corridor payments to plans to share  
11 their 2014 losses.

12           The report attributed much of this on the use of  
13 new hepatitis C therapies that were not fully accounted for  
14 in the bids submitted by plan sponsors in the spring of  
15 2013.

16           While patterns of payments 2014 diverged from the  
17 patterns we observed for earlier years, the preliminary  
18 data for 2014 reinforces the need to focus on the spending  
19 above the out-of-pocket threshold, 80 percent of which  
20 currently is picked up by Medicare's individual  
21 reinsurance.

22           In 2013, the characteristics of beneficiaries

1 with spending high enough to exceed the out-of-pocket  
2 threshold are similar to previous years. About 2.9  
3 million, or about 7.6 percent of all Part D enrollees, had  
4 spending above the out-of-pocket threshold, and the  
5 majority received the low-income subsidy.

6           There are a few new trends that's worth noting.  
7 One is the faster growth in the number of non-LIS enrollees  
8 who reach the catastrophic phase of the benefit.

9           Between 2007 and 2013, the number of non-LIS  
10 enrollees grew by 9 percent per year, on average, compared  
11 with 2 percent for LIS enrollees.

12           Another is that those who reach the catastrophic  
13 phase of the benefit are accounting for a growing share of  
14 spending. They accounted for 40 percent of the total Part  
15 D spending before 2011, accounted for 44 percent in 2011  
16 and 47 percent in 2013.

17           And, finally, that spending growth has been  
18 driven primarily by growth in prices. Between 2007 and  
19 2013, spending by or for this population grew by 8.4  
20 percent per year, on average. 6.9 percent was due to price  
21 growth, while 1.4 percent was due to volume growth.

22           Now let's turn to potential policy options. Part

1 D's risk-sharing provisions were set up before there was a  
2 market for stand-alone drug plans. That market is pretty  
3 robust today, so it may be time to revise Medicare's risk  
4 sharing to reflect current goals for the program. One goal  
5 continues to be ensuring that Part D enrollees have good  
6 access to appropriate medicines. But given the concerns  
7 that Shinobu described, it may be time to encourage plans  
8 to better manage the use and spending of enrollees who  
9 reach the OOP limit.

10           In our June report, we discussed how Medicare  
11 might give stronger incentives to control spending by  
12 making plans shoulder more insurance risk. However, growth  
13 in drug prices seems to be playing a big part in spending  
14 growth for enrollees who reach the OOP limit, and for some  
15 drugs without therapeutic substitutes, plans may not have  
16 much bargaining leverage over rebates and prices. So we  
17 think it's also important to consider giving plan sponsors  
18 more flexibility than they have today in using management  
19 tools, which might be a factor in their negotiations.  
20 Finally, some commissioners have pointed out that  
21 beneficiaries who reach Part D's OOP limit can face a  
22 considerable financial burden. However, having some cost

1 sharing above the OOP limit may provide friction against  
2 drug price increases. We'll talk about a way to limit  
3 financial exposure using fixed-dollar copays.

4 DR. SCHMIDT: So now let's turn to potential  
5 policy options.

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7 before there was a market for stand-alone drug plans. That  
8 market is pretty robust today, so it may be time to revise  
9 Medicare's risk sharing to reflect current goals for the  
10 program. One goal continues to be ensuring that Part D  
11 enrollees have good access to appropriate medicines, but  
12 given the concerns that Shinobu described, it may also be  
13 time to encourage plans to better manage the use and  
14 spending of enrollees who reach the out-of-pocket limit.

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4           Finally, some Commissioners have pointed out that  
5 beneficiaries who reach Part D's out-of-pocket limit can  
6 face considerable financial burden; however, having some  
7 cost sharing above the out-of-pocket limit may provide  
8 friction against drug price increases. We will talk about  
9 a way to limit financial exposure using fixed-dollar  
10 copays.

11           Last spring, we discussed Part D's risk  
12 corridors, the arrangement where Medicare shares in plan  
13 profits if plans' costs are a lot lower than expected or  
14 shares in plan losses if costs are much bigger.

15           Risk corridors provided training wheels for the  
16 new market of stand-alone drug plans, and we questioned  
17 whether they were still needed; however, we saw that over  
18 the first eight years of Part D, the risk corridors  
19 essentially functioned as a limit on plan profits. In the  
20 aggregate, plan sponsors earned profits higher than what  
21 they already built into their bids, and most plans paid  
22 Medicare back some overpayments at reconciliation.

1           For 2014, we don't yet know whether there's been  
2 a shift in that trend. When the Medicare trustees released  
3 their report last July, they estimated, as Shinobu told  
4 you, that plan sponsors hadn't anticipated the magnitude of  
5 spending for new hepatitis C therapies. There was a lot of  
6 uncertainty about launch prices and how widely physicians  
7 would prescribe these medicines.

8           So, for 2014, the trustees expected that under  
9 Part D's risk corridors, Medicare will pay money to plans  
10 to share in their losses. At some point, CMS will come out  
11 with the actual results for 2014, so you might want to  
12 revisit the issue when there's that additional information.

13           The June chapter also looked at reducing  
14 Medicare's individual reinsurance, which would give plan  
15 sponsors stronger incentives to manage benefits. The  
16 approach involves keeping Medicare's overall subsidy for  
17 Part D the same but providing more of it in the form of  
18 capitated payments rather than open-ended reinsurance.

19           We talked about how the current approach may be  
20 giving sponsors a financial incentive to bid in a certain  
21 way, so reducing reinsurance but also raising capitated  
22 payments might change that.

1           Now, there could be some offsetting behavioral  
2 effects. More risk means that plan sponsors would have  
3 greater incentive to bargain hard in their negotiations  
4 with manufacturers and pharmacies or to figure out more  
5 efficient ways to deliver benefits. But more risk might  
6 also mean that some plan sponsors, perhaps especially  
7 smaller companies, might need private reinsurance, which  
8 would raise their costs.

9           We point out in the mailing materials that most  
10 Part D enrollees today are in plans run by large insurers  
11 that may be in a better financial position to take on risk,  
12 and many of the same insurers sponsor Medicare Advantage  
13 plans that have a much higher average benefit value but  
14 don't get reinsurance from Medicare.

15           Now, if we consider how to go about changing Part  
16 D's reinsurance, we could lower it or we could eliminate it  
17 altogether. Eliminating Medicare's reinsurance would  
18 provide the strongest incentives for plans to manage costs;  
19 however, that would also lead to the strongest incentives  
20 for plans to avoid high-cost enrollees, many of whom  
21 receive the low-income subsidy.

22           You might also consider giving plans more

1 flexibility in their use of management tools, including  
2 formularies. We need plan sponsors to cover drugs that  
3 treat a wide range of conditions, but if a plan can't  
4 exclude a drug from its formulary or limit use, it's hard  
5 to negotiate over rebates and prices.

6 Medicare law and regulations have specific rules  
7 for Part D that can be very different from how plans run  
8 formularies for their commercial business. For example,  
9 the law says that plans must cover at least two drugs per  
10 therapeutic class. Additionally, Part D plans have to  
11 cover all or substantially all drugs in six protected  
12 classes.

13 CMS conducted a review and thought that two of  
14 the six classes -- antidepressants and immunosuppressants  
15 for transplant rejection -- no longer needed to be  
16 protected.

17 Last year, the Commission was generally  
18 supportive of CMS's position in a comment letter because  
19 those classes have had a lot of generic entry; however,  
20 after receiving public comments, CMS's proposal wasn't  
21 implemented.

22 Another potential area for more flexibility

1 relates to changes in formularies. If a plan wants to  
2 change its formulary in the middle of a benefit year, the  
3 plan can make additions without getting approval, but plans  
4 have to get CMS's approval before negative changes. For  
5 example, if a new specialty drug comes on the market and is  
6 in a class that doesn't yet meet the two-drug-per-class  
7 requirement, the plan has to cover it, and before a plan  
8 can apply prior authorization to the drug, it has to get  
9 CMS approval and lay out the criteria the plan would use  
10 for prior authorization decisions.

11 One potential policy change might involve less  
12 stringent rules around, for example, permitting more use of  
13 prior authorization when a new drug enters the market,  
14 especially for drugs launched at very high prices.

15 Plan sponsors tell us that there are other ways  
16 in which their Part D formularies differ from their  
17 commercial formularies. For example, they might first fill  
18 a 14-day supply for a month's prescription of high-cost  
19 drugs with a subsequent fill if the therapy continues, if  
20 the patient adheres to the therapy. If a beneficiary gets  
21 switched to a different drug or doesn't adhere to the  
22 regimen for some reason, that approach helps reduce waste.

1 In Part D, plans tell us that they have to fill the number-  
2 of-day supply as written by the prescriber currently.

3 In 2012, the Commission recommended that the  
4 Congress give the Secretary authority to provide stronger  
5 financial incentives for low-income subsidy enrollees to  
6 use lower-cost generics when they're available. This was  
7 motivated by the observation that while all Part D  
8 enrollees were using more generics, LIS enrollees were  
9 using noticeably more brand-name drugs than non-LIS  
10 enrollees. And LIS cost-sharing amounts are set in law.  
11 So one of the key tools plans use to manage spending is not  
12 available for this population.

13 In the time since the Commission made that  
14 recommendation, Part D plan sponsors have begun using newer  
15 tools to encourage enrollees to use lower-cost drugs in  
16 pharmacies. For example, most Part D plan formularies now  
17 use two generic tiers, with lower or zero copays for  
18 preferred generics. Most plans now offer preferred cost  
19 sharing if an enrollee fills their prescription within a  
20 specific pharmacy network.

21 As we have discussed in previous meetings,  
22 sometimes the use of these tools has been controversial,

1 involving tradeoffs between beneficiary access and cost  
2 control; however, some plans are trying to use these tools  
3 as ways to deliver Part D benefits more efficiently. Given  
4 how plan management tools are changing, you may want to  
5 discuss whether you want to broaden the wording of the  
6 Commission's 2012 recommendation to encompass these newer  
7 approaches.

8           Some of you asked that we look at providing  
9 greater financial protection to enrollees who reach Part  
10 D's out-of-pocket limit. LIS enrollees do not pay cost  
11 sharing above the out-of-pocket limit, but enrollees  
12 without the low-income subsidy still have to pay 5 percent  
13 coinsurance on each prescription above the limit. So, in  
14 addition to paying in 2015 about \$4,700 in cost sharing,  
15 those enrollees continue to pay 5 percent, sometimes for  
16 very expensive drugs.

17           In Medicare Advantage, enrollees have a hard cap  
18 on the cost sharing they pay for their Part A and Part B  
19 benefits. So we looked at a hard cap in Part D too. One  
20 thing to note, though, is that even though it is  
21 burdensome, cost sharing may be providing some drag on  
22 manufacturers' decisions about how high to set a launch

1 price. One way to limit that burden is to keep some cost  
2 sharing, but charge fixed-dollar copayments that are more  
3 predictable than percentage coinsurance.

4           We estimated that if we just look at one year,  
5 2013, Medicare program costs for having more complete  
6 coverage above the out-of-pocket limit would be relatively  
7 small, a few hundred million dollars. The reason that it's  
8 small is that today, most enrollees who reach the out-of-  
9 pocket limit receive the low-income subsidy, so Medicare is  
10 already paying the 5 percent cost sharing for them.

11           There would be new program costs for extending  
12 coverage to a smaller number of non-low-income subsidy  
13 enrollees. Medicare would pay for about three-fourths of  
14 the new benefits, but the rest would be paid by all Part D  
15 enrollees through slightly higher premiums.

16           There are some cautions we need to keep in mind,  
17 though. First, this is just a one-year snapshot of costs,  
18 but those costs would continue over many years; and second,  
19 there are a couple of factors that could push up costs  
20 quickly. The numbers of non-LIS enrollees who reach the  
21 catastrophic part of the benefit is growing faster than for  
22 LIS enrollees, and there are a lot of specialty drugs in

1 the development pipeline, which we expect to be launched at  
2 higher prices.

3           So, to summarize, here are the general areas of  
4 policy options you may want to discuss: reducing or  
5 eliminating Medicare's individual reinsurance, broadening  
6 plans' flexibility to use formulary tools, perhaps  
7 revisiting the Commission's 2012 recommendation regarding  
8 low-income subsidy cost-sharing, and fixed-dollar  
9 copayments above the out-of-pocket limit.

10           With that, we'll open things up for your  
11 discussion. We would appreciate hearing your comments  
12 about this material as well as your guidance around policy  
13 options with the intention of potentially developing the  
14 ideas into recommendations this spring, and we anticipate  
15 pulling this all together for a chapter in the Commission's  
16 June 2015 report.

17           DR. CROSSON: Thank you, Rachel and Shinobu. Not  
18 only comprehensive, but clear and actionable as well. So  
19 we appreciate the work.

20           Can I see hands for clarifying questions? Kate.

21           DR. BAICKER: Thanks. This is a lot of really  
22 helpful material.

1           I had a question on slide 6. I'm still slightly  
2 unclear on the relationship between the two components of  
3 the bids that the plans make. You make the point in the  
4 chapter, which is a really persuasive one, that if this is  
5 just about uncertainty it shouldn't be systematically  
6 positive on one and systematically negative on the other;  
7 there is something else going on.

8           Can you help me understand the connection between  
9 the two parts of the bid, if any, and what the implications  
10 would be of combining that into one to sort of make the  
11 negative and the positive more -- less separable, if that  
12 makes any sense?

13           DR. SCHMIDT: Okay. So I'm not sure I can  
14 adequately do the second part, but --

15           DR. MILLER: As far as we know.

16           DR. SCHMIDT: So when plans are submitting their  
17 bids, they not only bid on what the basic benefits are;  
18 they have to anticipate how much reinsurance they will get  
19 as well because that is going to be the basis for the  
20 prospective payments that they get monthly for reinsurance,  
21 too. So they're bidding on both of those pieces at the  
22 same time.

1           Do you want me to go through what we discussed  
2 last time in terms of the bidding incentive, or was that  
3 your question?

4           DR. BAICKER: So I'm still troubled by the  
5 bidding incentive, but I'm not entirely sure that I  
6 understand what the implication is of letting them bid  
7 separately on those components versus having -- and maybe  
8 this goes more towards the -- this is a different flavor of  
9 limiting the reinsurance subsidy.

10           But I wonder; is there the -- how much gaming is  
11 -- how much potential for gaming is introduced by this  
12 bidding structure?

13           MS. SUZUKI: So one thing we talked about last  
14 spring is that the bid that combines the expected  
15 reinsurance and the portion for the basic benefit sets your  
16 premium and your direct subsidy payments.

17           What we've seen is that the reinsurance portion  
18 has been lower than the actual. But at the end of the  
19 year, when CMS reconciles the actual with the bid, they get  
20 the full amount back.

21           And so we've seen the underestimate on that  
22 portion, but it seems like, on average, plans were

1 overestimating the benefit portion, which, at the end of  
2 the year they also do a reconciliation to figure out how  
3 much of the difference would be subject to the risk  
4 corridor payments. For that piece plans have been paying  
5 back to CMS on the average, which means that they were  
6 overestimating how much of the cost would be in that part  
7 of the benefit and they kept some of that amount as extra  
8 profits.

9 DR. BAICKER: And is the reconciliation on those  
10 two parts symmetric, or is one full and the other partial?

11 DR. SCHMIDT: I'm not sure. I mean, you get the  
12 full amount of reinsurance back if you underbid on that and  
13 it's ultimately higher. But because of the structure of  
14 the corridors, there's range where you get to keep extra  
15 profits. Right?

16 DR. MILLER: So kind of think of the corridors as  
17 symmetric, if I'm following your question, but remember you  
18 get to keep -- right.

19 DR. HOADLEY: So, in that sense, the reinsurance,  
20 you're getting all the money that you could have gotten  
21 back; in the risk corridors, you're only getting the money  
22 relative to the size and the rules around the corridor.

1 DR. SCHMIDT: And this is through 2013. We don't  
2 yet know what's going on with 2014.

3 DR. HOADLEY: I just think it's worth  
4 emphasizing: On slide 6, the reinsurance payments that are  
5 rising, those are reconciliation payments. On slide 5,  
6 you're showing the overall rise in reinsurance. That's the  
7 total pot of reinsurance.

8 So you could have had a situation where the line  
9 on 5 was going up, but the reconciliation on 6 was constant  
10 or going down. Those operate kind of independently of each  
11 other.

12 DR. SCHMIDT: That's correct.

13 MS. BUTO: This is a follow-up also. I just  
14 wanted to -- getting back to the points that Jack and Kate  
15 are making, is the beneficiary -- since the premium is a  
16 combination of the two, is the beneficiary a portion of the  
17 premium where what the beneficiary has to pay lower than it  
18 otherwise would be, or higher?

19 So, in combination, it's lower even though on the  
20 basic benefit, if that were the only thing the premium were  
21 based, they'd be charged too much. But because of the  
22 reinsurance, it ends up being lower.

1 DR. SCHMIDT: That's correct. In the mailing  
2 materials, we have a table in there that kind of gets to  
3 that point.

4 DR. NERENZ: On slide 14, the last bullet point,  
5 does the phrase "newer tools" there refer to just back up  
6 to the immediately prior bullet point, or is there a set of  
7 other newer tools that we're talking about here?

8 DR. SCHMIDT: That's a good question.

9 DR. NERENZ: Thank you.

10 DR. SCHMIDT: There's always going to be  
11 evolution of tools. I mean, we're kind of scanning the  
12 market, and we'll come back to you in January telling you  
13 about more recent things, but there's, for example, use of  
14 specialty pharmacies to deliver those types of medicines.

15 So it could evolve further, and so this is a bit  
16 open-ended wording for that reason, but I think we  
17 specifically had in mind those two things in the  
18 PowerPoint.

19 DR. NERENZ: I just wanted to clarify what you  
20 were asking us to think about.

21 DR. COOMBS: We may have covered this in the  
22 spring. Did having the managers make a difference in their

1 ability to predict both the cost and the out-of-pocket  
2 expense -- did having the manager impact that at all in  
3 terms of the plans --

4 DR. MILLER: What do you mean "the manager"?

5 DR. CROSSON: The pharmacy management.

6 DR. COOMBS: Yes, the PBMs. Having a PBM, did  
7 that make a difference with overall ability to correlated  
8 out-of-pocket projections or total premiums?

9 DR. SCHMIDT: All of the plans are using a PBM.

10 DR. COOMBS: Right.

11 DR. SCHMIDT: I mean sometimes a contracted one,  
12 sometimes internal to their organization. So I'm not sure  
13 what the counterfactual would be.

14 DR. COOMBS: So there was no factor, in terms of  
15 them lending themselves to information, that may have  
16 changed their ability for out-of-pocket expense. You know,  
17 cost. Were there any kind of predictors with utilization  
18 of those managers in any way?

19 DR. MILLER: If I understand the question, the  
20 answer is no, we didn't see a pattern where if you had this  
21 particular structure in your plan you were different in how  
22 you bid. I'm also not sure how much we actually tried to

1 pore through it and answer that and look at that, but in  
2 answer to your question, no, we're not aware of that.

3 DR. COOMBS: I was just wondering if there was a  
4 subset that had the plan had a better capacity to predict,  
5 and if it were so what did they have, and what is some of  
6 the intrinsic feature. And I'm not sure that we covered  
7 that.

8 DR. SCHMIDT: Well, in the chapter from last  
9 June, we actually show some reconciliation data by plan  
10 sponsor, by parent organization. And over the time frame,  
11 pretty consistently, at least for the largest ones, we were  
12 all seeing the same patterns of behavior across all. I  
13 don't know if that gets to your question or not.

14 DR. NAYLOR: So, on slide 13, I'm wondering if  
15 you could comment on how much flexibility in formulary  
16 tools, how important protected classes is, in thinking  
17 about possible changes.

18 I mean, what kind of benefit might be derived  
19 from that? Do we have any experience from commercial  
20 benefits that don't have protected classes and so on? So  
21 how much might a policy shift in this?

22 And I know CMS did not act on the recommendation

1 around the two classes. But how much of a lever might this  
2 be, and the recommendations around flexibility?

3 MS. SUZUKI: So I'm not sure that we have  
4 something that's quantifiable, but our sense is that when  
5 plans negotiate with drug manufacturers for rebates, having  
6 these protected classes does not give them the leverage  
7 they have in other classes to obtain rebates from drug  
8 manufacturers. They know that you have to put it in your  
9 formulary, and that's the strongest tool they have to  
10 negotiate discounts and rebates from them. Our sense is  
11 that by removing the protected status it would allow them  
12 to negotiate better.

13 DR. SCHMIDT: And what CMS has proposed to do is  
14 have kind of a process for evaluating what should be a  
15 protected class or not based on trying to think through  
16 whether the potential for harm to beneficiaries is severe,  
17 hospitalization or severe injury if they don't get  
18 relatively quick access to it, or if it's a sort of  
19 condition where you need access to multiple types of  
20 medicines to figure out which one is appropriate.

21 DR. HOADLEY: Also on 13, I wonder what we know  
22 about on the mid-year formulary changes. You mentioned

1 that if a drug is in a class that isn't already sort of  
2 full in the sense of the two drugs, or the one drug, in the  
3 subclass. A lot of the cases for new drugs are drugs that  
4 will eventually be in their own subclass, at least, if not  
5 class.

6 But I don't think CMS normally -- I mean, the  
7 process of going through the USP is much slower than sort  
8 of the mid-year. I don't know how, in practice, CMS sort  
9 of applies that rule as well as how -- it seems to me I've  
10 seen some new drugs do have prior authorization  
11 requirements. So, again, I don't know how much we know  
12 about sort of what CMS's practice is and how that kind of  
13 thing is enforced.

14 MS. SUZUKI: So I would say we're still learning  
15 about this works in practice, but in general, plans cannot  
16 make any changes to their formulary the first two months of  
17 the year. It seems like for negative formulary changes the  
18 rules are a little bit more strict than enhancements where  
19 they're adding drugs.

20 At least reading the rules, it seemed like CMS  
21 may have up to 30 days to approve or deny a request. Once  
22 it is approved, they still have to give 60 days notice to

1 the beneficiaries and prescribers about the change in the  
2 formulary status.

3 And I believe the deadline for submitting changes  
4 is July, and that limits how often you could apply new  
5 negative changes.

6 DR. SCHMIDT: Yeah. And in speaking with plans  
7 about some newer drugs that come out on the market mid-  
8 year, you can get approval from CMS to use prior auth.  
9 We're learning about the difficulty, or how arduous that  
10 process may or may not be. But it is possible to put prior  
11 auth on it, but it has to be limited to what's on the FDA  
12 label. So for some plans, for their commercial business,  
13 they might put more restrictive requirements on.

14 DR. MILLER: I also think some of what we heard  
15 when we were talking to plans is there's a certain -- there  
16 may be some variability across the country on how, you  
17 know, much response you can get when you're trying to make  
18 a change. And, obviously, the plans were very concerned  
19 when Sovaldi came on, and were trying to get changes, and  
20 were feeling like they were struggling.

21 DR. CROSSON: Kathy.

22 MS. BUTO: Just a follow-up on the same slide.

1 So it sounds like the restrictions on using utilization  
2 management tools for protected classes is mostly in  
3 regulations as opposed to the law. Or, does the law  
4 restrict the use of utilization management?

5 It sounds like there is some discretion there and  
6 it just isn't being allowed for the moment in regulations.  
7 Is that right?

8 MS. SUZUKI: I think that's correct. They have -  
9 - CMS has put out a regulation saying that exception has to  
10 be based on scientific evidence and medical standard, and  
11 it also requires public notice and comment period for  
12 approval of --

13 MS. BUTO: For any use of utilization management  
14 in this group.

15 MS. SUZUKI: For protected class drugs.

16 DR. MILLER: I mean, maybe a broader point and a  
17 broader way to think about it is as you decide on your  
18 direction, and then we come back and construct regulation,  
19 or I mean recommendations, some of these might be changes  
20 in law, so maybe asking the Secretary to look at things.

21 And on some of the management tools, I mean, a  
22 way you can think about it -- I'm not saying you have to,

1 but a way to think about it -- is you could make different  
2 rules for very high-priced drugs. And what that cut point  
3 is, of course, is a question.

4           And I think what we're talking about is when  
5 something happens mid-year and some very expensive drug  
6 shows up, should there be some set of rules that lets the  
7 plans kind of get on top of it and not have to go through  
8 such an arduous, I think was the word, process?

9           DR. SAMITT: So this may or may not be a round  
10 one question, but on slide 12, I guess I'm having trouble  
11 reconciling when we think about reducing or eliminating  
12 reinsurance, on top of your comments about the fact that  
13 this may create exposure, especially for biologics and  
14 other specialty drugs. How do we reconcile that?

15           Do we know to what degree the payments for  
16 reinsurance specifically apply to these classes of drugs?

17           Are we thinking of holding plans accountable for  
18 things that they can't be accountable for because of prices  
19 related to biologics, et cetera?

20           DR. SCHMIDT: That's a tough question. In some  
21 sense, yes, but that was kind of also the reasoning behind  
22 allowing a little more flexibility in the formulary so that

1 you can --

2 DR. SAMITT: I got it. So they go hand in hand.

3 DR. SCHMIDT: Right.

4 DR. MILLER: And you're right; it's a round two  
5 question.

6 But in all seriousness, I mean, there is a  
7 tension here. I mean, Medicare has constructed a situation  
8 here where the plan acts as the intermediary in negotiating  
9 and formulary coverage and all of that. And to the extent  
10 we just say, well, the plans can't control it, then all  
11 those costs just roll into the program.

12 Here, we're trying to strike a balance between  
13 the plans' pressures that they're under and the tools that  
14 we're giving them at the same time. That's kind of the  
15 discussion.

16 And it will be very embedded, if not explicit, in  
17 round two.

18 DR. CROSSON: More to come. Rita.

19 DR. REDBERG: This is a round one question.

20 DR. CROSSON: Good, good.

21 DR. REDBERG: I say. On page 14 of the mailing  
22 materials, I was trying to understand more about the

1 rebates. First of all, how do we get the rebate  
2 information, and then where does that get figured in when  
3 we're calculating reinsurance and risk corridors and that  
4 sort of thing?

5 DR. SCHMIDT: Right. So CMS calls this direct  
6 and indirect remuneration. And so they have to report.  
7 The plans and their PBMs are reporting this information to  
8 CMS, how much they've gotten from the manufacturers as  
9 rebates.

10 And there are rules that CMS puts out, or  
11 guidance, on how to allocate that rebate across Part D  
12 spending, and basically the answer is smoothly. So even  
13 though some drugs that may be used more heavily by people  
14 who reach the out-of-pocket limit may not be obtaining  
15 rebates because they don't have as much competition going  
16 on. All of that rebate that comes back is just spread out  
17 proportionally to total drug spending.

18 That's essentially how it works.

19 DR. MILLER: And just to be clear on the "we,"  
20 CMS gets the rebate data. Just for the public, we don't  
21 have access to that.

22 DR. REDBERG: Thank you.

1           My other round one question was also on the  
2 mailing materials. On page 17 there is a table that is  
3 very helpful to try to understand the difference in drug  
4 utilization between LIS enrollees and non-LIS enrollees.

5           I'm wondering if you also could tell us what are  
6 the top drug categories or any specific drugs that were  
7 more common in the LIS enrollees?

8           MS. SUZUKI: In the past, this is not the most  
9 recent data, I think when we discussed a long-term copay  
10 policy recommendation, we saw some of the very common  
11 classes like diabetic therapy or antihyperlipidemics,  
12 antihypertensives, those came up a lot.

13           There may have been some shift, but I would  
14 imagine those are going to be pretty dominant for LIS  
15 population.

16           DR. REDBERG: More brand name than generics,  
17 you've said before.

18           MS. SUZUKI: Yes.

19           DR. MILLER: And I think that was the surprising  
20 thing, I think, when Shinobu did this work a couple of  
21 years back, is I walked around with the perception that the  
22 LIS folks used expensive different drugs. And they do, to

1 some extent. But you find a lot of the common drugs, just  
2 more name brand, like you said.

3 DR. CROSSON: I think we're ready for round two.

4 So in thinking about how this is going to go, I  
5 think there is a couple of, sort of, procedural issues you  
6 have to deal with here. We have roughly about 10 options  
7 on the table at the same time; three options with respect  
8 to reinsurance -- don't change it, change it some, change  
9 it a lot. And then, with respect to plan flexibility, at  
10 least three options, perhaps more. The issue of LIS  
11 copayments, trying to introduce incentives there, probably  
12 two options. And cost-sharing above the out-of-pocket  
13 limit, at least two options there, as well.

14 So my thought was that if we tried to kind of do  
15 this in the option, without any structure, we would be all  
16 over the place, the time would run out and we would have no  
17 conclusions. On the other hand, if we took them one at a  
18 time, we'd be still here at five o'clock.

19 So at some risk, what I thought we would try to  
20 do is this: because there's another perspective here. And  
21 that is, as has been pointed out during Craig's question a  
22 few minutes ago, among these options there are trade-offs.

1 If you take one option, it makes it harder for the plan for  
2 example, it makes it harder for the LIS beneficiary for  
3 example. Whereas other options would be the reverse.

4 So this sort of situation arguably can lend  
5 itself to a package. In other words, we try to construct a  
6 package that includes one or more options in all of these  
7 categories and then eventually perhaps even bring it  
8 forward as a package.

9 So what I thought we would do, if you could throw  
10 up the just made slide, is to start out with a straw man  
11 package and suggest that we have a discussion predicated on  
12 this. Do you like the package? Do you not like the  
13 package? Are there elements of the package that you feel  
14 strongly need to be changed? If so, how would that  
15 influence you on other elements of the package?

16 Let's see where we end up in about an hour on  
17 that basis. Okay?

18 So the proposal here is that we reduce the  
19 Medicare reinsurance from 80 percent to 20 percent. That's  
20 as opposed to doing nothing and as opposed to eliminating  
21 it entirely. Why would we not eliminate it entirely? I  
22 think Rachel mentioned, in fact, that there is some

1 question about whether or not by eliminating it entirely we  
2 would eliminate disincentives to cherry-picking among the  
3 plans. At least, that's one issue.

4 That we would, in exchange, provide greater  
5 flexibility to the plans in terms of their ability to use  
6 some of the tools that exist, for example, in the  
7 commercial world. That would include reiterating our  
8 former recommendation to remove the two drug classes. We  
9 had anti-immunosuppressants and --

10 DR. SCHMIDT: Antidepressants.

11 DR. CROSSON: -- antidepressants from the drug  
12 classes.

13 And for high cost drugs, ease the -- at least the  
14 procedural processes around getting approval for mid-year  
15 formulary changes which appear to be in place. It seems  
16 like, Kathy, that could be done by CMS.

17 And in addition, allow plans more flexibility in  
18 using smaller -- and intervening to have smaller supplies  
19 for certain drugs provided, even if it's at a more frequent  
20 basis.

21 We would then update our 2012 LIS copy  
22 recommendation in two ways: consider the introduction of an

1 additional tier, a non-preferred generic tier for example,  
2 or other tier structures. Or in other ways broadening the  
3 difference between the copayment for generic drugs and for  
4 brand name drugs, which could include, for example, having  
5 zero copayment for generic drugs and a larger amount of  
6 copayment for brand drugs that currently exists.

7           This doesn't necessarily involve providing only  
8 choices for more out-of-pocket payment for beneficiaries.  
9 It could include less or zero, but it does broaden the  
10 difference between generic and brand name, and there are  
11 several ways that that could be done.

12           And in addition, allowing for the plans to use  
13 preferred pharmacy networks with potentially different  
14 copayments for beneficiaries who choose to use preferred  
15 pharmacies versus non-preferred pharmacies.

16           And then the last piece has to do with  
17 beneficiary cost-sharing above the out-of-pocket limit.  
18 Here there would be two proposals. One would be for the  
19 non-LIS beneficiaries over the out-of-pocket limit, and  
20 that would be to apply a modest, as yet to be determined,  
21 fixed dollar copayment to limit the exposure for those  
22 individuals and for the LIS beneficiaries to provide for a

1 nominal copayment but only for brand name drugs for those  
2 individuals over the out-of-pocket limit.

3           So in almost every case, or in the combination of  
4 these elements, there's a little give and there's a little  
5 take back. So that's the straw man, there are arbitrary  
6 choices made here, obviously. But it's put forward, I  
7 think, as a discussion piece but one that we think is  
8 reasonably balanced.

9           So let's -- Mark, do you want to comment on that?

10           DR. MILLER: You're good.

11           DR. CROSSON: Let's start on that basis. Jack,  
12 you have the floor.

13           DR. HOADLEY: So I think this is helpful to try  
14 to start framing this conversation, and I'm going to go  
15 through my take on most of these.

16           I would actually add sort of the one that is  
17 missing, but sort of intentionally, which is the risk  
18 corridor where the presentation suggested the potential to  
19 not make any change and I think you're essentially  
20 endorsing that by not listing it. But I think that's worth  
21 being explicit about. I think that's a good decision.  
22 That is a tool that allows plans some flexibility, as we've

1 seen in the 2014 numbers. I think those are very telling  
2 that, on the one hand, in the past it protected the  
3 government in terms of high profits. In 2014 it seems to  
4 have protected the plans against the unexpected costs of a  
5 new drug and that may well be true in 2015, as well.

6           We could, at some point in the future, think  
7 about some restructuring where there was something more  
8 across the board for, you know, a new drug appeared on the  
9 scene in mid-year and it added costs. And rather than it  
10 being plan-specific, maybe you just add an increment.  
11 That's something we can think about a couple of years down  
12 the road.

13           On the reinsurance, I'm with you on that. I  
14 think something like a 20 percent change -- and I think,  
15 you know, one of the things that I'm struck by is, first of  
16 all, that balances some of the different effects, as you've  
17 said.

18           Potentially, it should not affect beneficiary  
19 premiums. We've talked about -- in the presentation --  
20 talked about sort of things that might push them in either  
21 direction. So maybe that's a sense that on average it  
22 shouldn't have an effect. It may turn out to have an

1 effect because anyone of these things -- and that's why  
2 some of these other items are on the list.

3           You know, the point was raised about the single  
4 source drugs and the lack of leverage. In a sense, that's  
5 already true. I mean plans, although they are protected by  
6 reinsurance, that's not a full protection for them. And  
7 so, they're dealing with that today. This basically says  
8 to plans that have taken a Hep C and said in order not to  
9 be completely swamped by the cost we're going to put in  
10 fairly strict prior authorization. There's some negatives  
11 to that, from a public health perspective, from a  
12 beneficiary perspective.

13           And so I think through all of this we should pay  
14 attention to how do we monitor the use of prior  
15 authorizations? How do we monitor the use of exceptions to  
16 make sure that beneficiary access is protected for drugs  
17 that are important? I think that's the part of that  
18 tension that we haven't talked about quite as much as we  
19 should on these kinds of things. It's going to come up on  
20 some of the other issues, as well.

21           But I do think moving that reinsurance threshold  
22 is a sensible approach.

1           On the plan tools, I have sort of more questions  
2 and I'm not sure I'm there on some of these -- as you put  
3 it -- straw man recommendations.

4           I think with the protected class changes, we  
5 really do need to be very careful about what the  
6 implications are for beneficiary access. And I think -- I  
7 do have some sense that CMS was pretty thoughtful when they  
8 thought about their proposal for class, like the  
9 antidepressants, where it's mostly generics.

10           I think part of the issue is I don't take it full  
11 value, some of the critiques from the plans who say our  
12 hands are tied. In many cases, plans are listing far more  
13 than the minimum drugs in their formularies in this two  
14 drugs per class -- now I'm not to my protected here.

15           It's typical for plans to be well above those  
16 thresholds in many classes. There may be individual cases  
17 where they feel constrained. In a class like  
18 antidepressants where most of the products are now  
19 generics, they are likely to continue to offer all of those  
20 generics. It may give them the ability to say to some new  
21 "me too" brand name drug that comes on the market, we can  
22 try to limit use of that. They already have the tool of

1 putting it at least on a non-preferred tier.

2           So I'm not sure that there's a lot harm  
3 necessarily being done if classes are thought of. If two  
4 years from now there's new therapies in the antidepressant  
5 class or new evidence about substituting and switching  
6 people on drugs, that's part of the logic of these  
7 protected classes, is that there are things where we think  
8 there's some evidence that patient shouldn't be switched  
9 around from product to product so readily as might be the  
10 case on a proton pump inhibitor or something like that.

11           So you know, I'm potentially okay with some  
12 changes there, but I think we want to think through what  
13 the beneficiary access applications are as well as how big  
14 a help that is to the plans. I mean, if it's not that big  
15 a help, then is it worth risking some harm to the  
16 beneficiaries?

17           The new drugs, again I'm not sure -- I'd like to  
18 understand, as per my previous question, how much  
19 limitation. It seems like in the Hep C case plans were  
20 able to have fairly strict prior authorization  
21 requirements. I don't know how much of that had to do with  
22 the timing of things that they could do at the beginning of

1 a new plan year versus what they could do in mid-year, and  
2 sort of how much of the use fell mid-year onward and the  
3 sort of arbitrariness of the calendar. If a new drug gets  
4 introduced -- and again, there's a lag time for plans to  
5 put a drug on formulary in January.

6 Right now, if you go on the plan finder and look  
7 for the PCSK9 drugs which are approved on the market, they  
8 don't show up anywhere. They're not even in the plan  
9 finder lookup function, as of a few days ago when I tried  
10 to look them up.

11 So I think there's definitely a reason for more  
12 understanding. I do think, my sense is it's not really a  
13 negative formulary change to say we're adding a new  
14 product, like a PCSK9, to the formulary with a utilization  
15 requirement because that's adding access to the drug that  
16 wasn't there before, although with restrictions.

17 So there may be a logic to saying if you're going  
18 to add a new drug, being able to add restrictions at the  
19 same time is certainly quite reasonable.

20 DR. CROSSON: But Jack, I would just insert for a  
21 second. My understanding is it's not correct that CMS has  
22 been interpreting that as a negative change.

1 DR. HOADLEY: Right.

2 DR. CROSSON: So as this has been implemented in  
3 the field, it has that effect.

4 DR. HOADLEY: I get that point. That's why I'm  
5 saying I think, in effect, I'm not sure I see it as a  
6 negative change. So therefore, to say that's what the rule  
7 should be within that mid-year change -- you're adding a  
8 drug but adding it with a restriction -- might be not  
9 viewed as a negative change....to be double negative.

10 DR. MILLER: I took your point. We now have  
11 access to the drug. By the way, there's a management  
12 overlay.

13 DR. HOADLEY: There is limited access for the  
14 moment and we could broaden the access next year or we  
15 could further narrow the access next year in the new plan  
16 year.

17 On the LIS tools, I've always -- I wasn't on the  
18 Commission when this was done. I think I have, again,  
19 mixed feelings about some of the ways this is done.

20 I do believe that the option of creating a zero  
21 copay for generics as an incentive is very useful. I've  
22 done some research on the impact of a zero copay. I think

1 we have to be careful that we're not unnecessarily adding  
2 copays.

3           So one of the things I think was emphasized when  
4 the recommendation was made a few years ago, that this  
5 might not apply to a class where only brand products were  
6 available. So I think we need to continue to remember, if  
7 we're going to move in this direction, some of that. What  
8 does that mean now, in terms of multiple tiers of generics?

9           I want to think through more what that would  
10 mean. I think we would need to work through some examples.  
11 Are we saying they could do a zero dollar, \$2 kind of  
12 differential for two generic tiers? I think that's just  
13 something where we need to understand what that might look  
14 like better, and I think we need to be careful that we're  
15 not making it tougher for these low-income beneficiaries.

16           The same thing with the preferred pharmacy  
17 networks. There are concerns about the access to these  
18 networks. I think one of the things we need to think about  
19 is that LIS beneficiaries, in many cases, may use different  
20 pharmacies based on geographic location or even just  
21 pharmacies that have been more welcoming to certain kinds  
22 of patients. And since, in general, it tends to be the

1 chains that are in the preferred pharmacy networks, it may  
2 not be the chains that are most often serving some of the  
3 lower income areas.

4           So I think we really need to be very careful and  
5 look at what the access dimensions are before we do  
6 something that allows differential copays to apply.

7           And then last, on the out of pocket limit, this  
8 is one obviously I've raised several times before. I just  
9 wanted to throw one data point in that we've been looking  
10 at for some analysis that hopefully we'll get out and  
11 published in a few weeks.

12           But we've been looking at some of the high cost  
13 specialty drugs, the cancer drugs like Gleevec, the Hep C  
14 drugs, the rheumatoid arthritis drugs and the MS drugs.  
15 And when somebody takes one of these drugs and just to  
16 simplify them, say that's the only drug they're taking, not  
17 even loading them on top of their regular course of  
18 therapy.

19           The amount that the beneficiary taking, say  
20 Sovaldi, pays out of pocket total across the year, is  
21 something like \$3,800 in the catastrophic phase, and  
22 another \$2,800 that occurred under the cap. So they are

1 actually paying more than half of their out-of-pocket cost  
2 in the phase that we think of as they're being protected as  
3 catastrophic coverage.

4           So people quite often jump into thinking there's  
5 an out-of-pocket limit on Part D. For these kinds of  
6 situations, it's so much not an out-of-pocket limit that  
7 they're paying more above the catastrophic limit out-of-  
8 pocket than they are paying out-of-pocket below.

9           That's true for Sovaldi. That's true for  
10 Gleevec. That's true for Copaxone and several other  
11 examples that we've looked at.

12           And of course, it's equally true for somebody  
13 who's taking a dozen brand name drugs or a mix of 15 drugs  
14 of brands and generics that adds up to similar costs.

15           So you know, this is why I sort of made this  
16 point before, that we really need to provide some  
17 protection and catastrophic coverage that's really  
18 catastrophic. Personally, I would rather see it be a hard  
19 out-of-pocket limit. That's what we've done on the  
20 exchange world. That's what we've even talked about for  
21 Medicare more generally. That's what we require Medicare  
22 Advantage plans to do, although not on the drug side of the

1 benefit.

2           So if it works in those sectors, it seems like a  
3 hard out-of-pocket cap to me. And I'm skeptical generally  
4 on the argument that it provides much of a drag on launch  
5 prices. I think launch prices are driven by a whole lot of  
6 other things that are not this. And I don't know whether a  
7 small fixed copay really changes that equation over a zero.

8           My preference still would be to do a hard cap on  
9 the out-of-pocket thing. But I certainly would prefer a  
10 nominal copay over the status quo.

11           So I'll stop with that.

12           DR. CROSSON: Okay. So let me see the hands  
13 again, like the package, don't like the package, would like  
14 to change this element of the package? And if you want to  
15 change an element, comment a little bit on what other  
16 element you might change so that we come out with a  
17 balanced package at the end. That's my --

18           So I see Craig. Let's march this way.

19           DR. SAMITT: So I like the package. The one part  
20 of the package that I have a question about is the first,  
21 and it goes back to the questions, the inappropriate Round  
22 1 question I asked about are we exposing the plans to too

1 much risk, especially because of biologics and other  
2 specialty drugs, and could we envision, for example, an  
3 alternative to the first recommendation being elimination  
4 of the reinsurance for everything but classes of drugs, so  
5 specialty or biologics. And there is higher levels of  
6 reinsurance for that class where we feel the plans may not  
7 have significant influence but complete accountability and  
8 risk for pretty much everything else. I don't know how  
9 that all settles out in terms of rounding out the proposal,  
10 but that would be my only modification.

11           The others -- and I would say the combination of  
12 all of them is what's critical -- all made complete sense  
13 with Jack's additional perspective and caveats.

14           DR. CROSSON: Okay. Thank you.

15           Kathy?

16           MS. BUTO: Yeah. I don't have a problem with the  
17 first one, particularly if we keep the risk corridors. I  
18 guess that was the caveat that Jack laid out.

19           I do actually think -- I haven't thought this  
20 through, but Craig's suggestion about having categories  
21 that would be subject to reinsurance and others that would  
22 not might really disadvantage beneficiaries, particularly

1 if they are taking a lot of different drugs and only the  
2 copays that go for the specialty drugs would be counted. I  
3 don't know. But it just seems to me that it might have  
4 some unintended consequences.

5 I like Jack's recommendation to move to an  
6 overall cap as opposed to having the two copays, and the  
7 example was interesting. I'd be interested in seeing what  
8 comes out.

9 And I think we meant to be more explicit about  
10 the fact that under plan flexibility for high-priced drugs,  
11 we're also talking about not just midyear formulary  
12 changes, but a greater flexibility in the use of plan  
13 tools, whether it's midyear formulary or otherwise. I got  
14 the sense that within the six protected classes that there  
15 are real constraints on the use of tools, regardless of  
16 whether they're midyear formulary changes or not; that,  
17 generally, their hands are tied.

18 I personally would rather see a greater  
19 availability of things like antidepressants and cancer  
20 drugs and so on but some flexibility to use tools than to  
21 limit the numbers of drugs. Just recognizing that they're  
22 used in combination and individual circumstances dictate

1 which drugs are best and so on, and I think there is an  
2 issue with some drugs. It's good to stay on them and not  
3 have them change from year to year kind of thing.

4 So, anyway, I think we meant to be explicit about  
5 more tools, but I would put that in there, and that's just  
6 where I stand.

7 DR. CROSSON: All right.

8 DR. MILLER: Can I just put one marker down? I  
9 don't know whether this is Cori. This variable cap by drug  
10 in addition to the concerns Kathy raised, I also wonder  
11 about other incentives in kind of an insurance design kind  
12 of way. And since you weren't doing anything, I thought  
13 maybe --

14 [Laughter.]

15 DR. MILLER: -- I'd ask you to start thinking  
16 about that because I see what he's saying, but I start to  
17 think of like a whole bunch of gaming issues.

18 DR. CROSSON: Okay. Rita, do you want to come  
19 in? Rita, yeah. Okay.

20 DR. REDBERG: Just to comment.

21 DR. MILLER: Yeah, yeah, yeah.

22 DR. REDBERG: So, in general, I like the policy

1 options. I am concerned. I think the idea of reducing  
2 reinsurance is good, and I actually was wondering if the  
3 risk corridors was time to go. But because looking at sort  
4 of the bigger picture, I worry that these are all being  
5 used to prop up a dysfunctional system. There are a lot of  
6 indications that our drug plans are not serving Medicare  
7 beneficiaries in the best way, in that I mean we don't have  
8 any measures, for example, looking -- you said we want to  
9 assure access to appropriate medications, and I think  
10 that's true, but there's nothing in here that assures any  
11 of this is appropriate. And there's a lot of evidence that  
12 a lot of these are inappropriate medications.

13           So, without any kind of -- I think we need sort  
14 of measures looking at appropriate use and overuse of  
15 medications. In that article that came out in JAMA a for  
16 example days ago, showed this incredible increase in  
17 prescription drug use in the U.S. in general, with 60  
18 percent of people taking at least one drug, but if you look  
19 at the table where it breaks it down by age, polypharmacy  
20 and people over 65, meaning five drugs or more, was at  
21 almost 40 percent. I'm just not sure that everyone needs  
22 to be on all these drugs that we're on, and then there are

1 all of the other problems of them being very expensive.

2           And the other point that I don't think we  
3 currently look at in approval or in coverage is that it's  
4 not clear to me that we even are looking at data that was  
5 gathered in people over 65. So risks and benefits are  
6 going to be very different in the elderly than they are in  
7 younger people, and most of these drugs were studied in  
8 younger people. And so I think we need to be sort of in  
9 the bigger picture. I hate to prop up a system that's just  
10 not working well for our beneficiaries, and there are a lot  
11 of indicators that our current drug system is not working  
12 well. It's getting more and more expensive. People are on  
13 more and more drugs, and they're not getting healthier as a  
14 result. So I think we want to take hold of that and try to  
15 improve the outcomes and what we're actually paying for  
16 because that's a lot of money.

17           The last comment, 7.6 percent of enrollees  
18 account for 47 percent of Part D spending. I mean, that's  
19 astounding, and I think we need to look kind of closely at  
20 what we're getting and what's going on there.

21           DR. CROSSON: So just to be clear again -- and I  
22 didn't reiterate this in the beginning, but we did at the

1 prior meeting discuss the fact that we intend to take a  
2 comprehensive look at drug costs. In the meantime, we are  
3 continuing and trying to finalize the work that has been  
4 begun already.

5           So some of the things we're doing, like with this  
6 work on Part D reinsurance, it seems like a rifle shot,  
7 when in fact I think you were suggesting a militia all  
8 armed with shotguns, and I'm not sure whether that's the  
9 right analogy here, probably. I know Mark gets a little  
10 concerned about my use of metaphors on occasion,  
11 particularly military or sports, so I'll --

12           DR. MILLER: This is true.

13           DR. CROSSON: Right, right.

14           [Laughter.]

15           DR. CROSSON: But the larger set of issues you  
16 bring up are still on the table for the foreseeable future;  
17 however, here, we're trying to advance and complete the  
18 work that we've begun already on this particular issue or  
19 set of issues.

20           Bill?

21           MR. GRADISON: I think this is a reasonable set  
22 of proposals. I think I'd find it easier to support it in

1 a year than I do right now because I think there's some  
2 very dramatic changes, which we've discussed, that are  
3 taking place in terms of new drug introductions and some of  
4 the discussion about pricing.

5 I'm concerned that we may not be able at this  
6 point to fully understand, understand as fully as I would  
7 like to understand, how these changes that are taking place  
8 in the marketplace might be impacted by the list that's up  
9 there. Sometimes maybe slowing down, getting another year  
10 of data isn't necessarily a bad thing. I'm not  
11 recommending inaction. I'm just a little uneasy about  
12 acting at this time.

13 DR. CROSSON: Thanks, Bill.

14 But I guess two predicates there, number one, at  
15 least the postulate so far is that maintaining and not  
16 changing the risk corridors provides a level of protection  
17 against unexpected cost from introduction of new expensive  
18 drugs, as you say. And I guess the second point I might  
19 make is that the time frame for us to complete this  
20 deliberation and issue a report takes us to June, and my  
21 guess is, during that time, not only will we have time to  
22 consider things, but we'll have more time to understand

1 what's going on in the environment.

2 David.

3 DR. NERENZ: I generally like the package, so  
4 we've talked about a few tweaks, and I haven't yet heard  
5 something that's directly one thing conflicting with the  
6 other. So it's easy to say I sort of like it all so far.

7 Particularly, though, the structural balance, I  
8 think if we're going to add an element, say in the first  
9 bullet that puts the plans at greater risk, then I think  
10 absolutely there has to be some corresponding additional  
11 flexibility or tools, which led to my easier question of  
12 "What are those tools exactly, and are there some that we  
13 haven't yet thought of?" So all of that is just stating I  
14 think we're on the right track.

15 The only other thing I'd like to bring up -- and  
16 I am looking at page 25 of the materials we had -- this is  
17 about the diagnostic-based risk adjustment system. I  
18 hadn't heard a lot about that. In fact, I had to thumb  
19 through here just now to make sure I remembered there even  
20 was such a thing, but it appears to be in there. I would  
21 think that that may have a part in this package somewhere  
22 because, if the driver of individual high cost is something

1 like a new Hep C diagnosis or a new cancer diagnosis, it  
2 would seem like some of the risk could then be ameliorated  
3 by an adjustment system that would affect what -- the CMS  
4 subsidy? Is that what that risk adjustment drives?

5           So it could be part of the package that if we're  
6 going to add some element of risk, some of what the plans  
7 cannot control, like a new cancer diagnosis, could perhaps  
8 be picked up perhaps better -- but we don't know the  
9 details -- through something like the RxHCC systems. I  
10 just want to make sure that's in the picture as well.

11           DR. CROSSON: Go ahead, Rachel.

12           DR. SCHMIDT: So, yes, the capitated monthly  
13 payments that Medicare makes to the plans are risk adjusted  
14 by that system that you're referring to.

15           DR. NERENZ: And are they adjusted monthly? If a  
16 member of a Part D plan develops a new cancer in a year,  
17 when does that get picked up or adjusted for?

18           MS. SUZUKI: The diagnoses, I believe there's a  
19 two-year lag.

20           DR. SCHMIDT: And in the case of Hep C, for  
21 example, OACT, I believe, did a manual adjustment for  
22 beneficiaries that started to use those drugs, to reflect

1 the higher cost of that particular specialty drug, because  
2 it was so expensive. So they went in and tweaked those  
3 particular condition categories.

4 But, in general, the RxHCC, if you did the first  
5 approach, the first bullet of reducing reinsurance, that  
6 means the capitated payments would make up a bigger  
7 proportion of Medicare subsidy. Yes, the risk adjustors  
8 are very important for making sure it doesn't lead to more  
9 cherry-picking. CMS would have to recalibrate the risk  
10 adjustors to reflect the higher level of capitated  
11 payments, and yes, we probably should think about whether  
12 or not there's more situations where manual adjustments or  
13 a different kind of approach might work better.

14 DR. NERENZ: Again, I don't have the specifics.  
15 We haven't talked about it much in depth. I'd like to see  
16 us pay a little more attention to that because this strikes  
17 me as kind of a strange form of insurance in general. It's  
18 only one bit of the treatment of portfolio, and if we ask  
19 plans to be responsible for drug cost, it would seem like  
20 we'd want to pull away making them responsible for the  
21 diagnoses that people have or the new diseases they get  
22 because they have no control over that whatsoever. And

1 this mechanism seems to be a way of doing it, but if  
2 there's a two-year lag, it seems to be not -- then we get  
3 into some questions of what's the stability of plan  
4 membership.

5           If some of your members developed cancers this  
6 year, are they still with you as members two years from now  
7 when the HCC system picks that up? I'm guessing many of  
8 them are now. So a quicker pickup would just be one  
9 precise thing that maybe could happen.

10           DR. SCHMIDT: I think the two-year lag issue was  
11 with respect to recalibrating the risk adjustors, not  
12 necessarily whether an individual beneficiary has a  
13 specific condition or not.

14           DR. NERENZ: Or whether a payment to a particular  
15 plan was driven by that. That's the leg I'd be interested  
16 in, is how long does it take for that new cancer diagnosis  
17 to be picked up in the payments that are made through that  
18 mechanism to that plan.

19           DR. SAMITT: And I guess I would also add that  
20 this discussion sort of helps mitigate some of my concerns  
21 about the first category, that if the risk adjustment were  
22 more real time, to reflect differential diagnoses for a

1 particular plan, if there were such a significant lag and  
2 that was accounted for in the benefit, the premium  
3 essentially, then -- or in the capitation -- excuse me --  
4 then I'd be less concerned about changing the reinsurance  
5 levels or the need to create distinct reinsurance for  
6 certain classes.

7 DR. CROSSON: Mark had a point?

8 DR. MILLER: No, no. I'm all right.

9 DR. CROSSON: On this, Kathy?

10 MS. BUTO: Yes, on this, just a related point.

11 And I am not recommending this, but I know that in Medicare  
12 Advantage, if something comes online, a new procedure,  
13 midyear, there is some ability to adjust and pay the plans.  
14 I don't think the whole amount more but maybe some portion  
15 more, and that's probably what the actuaries did manually.  
16 But I don't think we want to lose sight of that. There is  
17 some flexibility to make some payment adjustment.

18 DR. CROSSON: David again? No.

19 That is a very good point. I mean, I think to  
20 the extent that we reduce or increase the risk to plans,  
21 then the risk adjustment process is going to come into  
22 sharper focus, and the question of whether it's adequate or

1 not is a realistic question to ask. And I think the  
2 question of whether it could be strengthened in some way  
3 again also.

4 Coming around this way. Cori.

5 MS. UCCELLO: So, just to clarify this risk  
6 adjustment discussion, there are two aspects of this. One  
7 is calibrating the model so that the spending in the model  
8 reflects the new spending of the drug that's coming along.  
9 So that's one part, and that's where some of this lag is  
10 coming in or where there is an ad hoc adjustment.

11 Then there is the second aspect of whether the  
12 risk adjustors, whether the diagnoses or whatever is used  
13 in that model, are done prospectively or concurrently. Is  
14 Part D risk adjustment prospective so that in the middle of  
15 the year, somebody gets a diagnosis that would have  
16 resulted in a higher payment and higher cost, that would be  
17 taken care of, where it would not be taken care of in a  
18 prospective system? And I think it's prospective. Yeah.

19 So it would be okay the next year, somebody who  
20 starts Hep C in June or November or something and carries  
21 over to the next year. That new spending would be  
22 reflected in the risk adjustment for the next year but not

1 the current year. Is that right? Okay.

2 DR. MILLER: And the tension that -- and I want  
3 to be really clear that I think the notion of -- and Jay  
4 and David's points about risk becomes really important.  
5 None of my comments are in any way disagreeing with that.  
6 But your tension you'll always have in thinking about this  
7 is how much you do it in real time and how much you pass  
8 through. So if you say, okay, there's a big expensive  
9 drug, so we'll give the plans a bump, then you're telling  
10 the manufacturers, "Raise your prices," okay? So there  
11 will be that tension.

12 And then whether you're measuring the risk of  
13 patient -- or sorry -- beneficiary based on what's done to  
14 them in real time, you're encouraging the plan to do more,  
15 and so there's always that tension and risk of how much  
16 perspective, how much concurrent.

17 All that said, I think your point is well taken,  
18 and to the extent that we mess around with the risk that  
19 they're under, we should be paying more attention to the  
20 risk structure.

21 MS. UCCELLO: Okay. So now to my regularly  
22 scheduled comments.

1 [Laughter.]

2 MS. UCCELLO: I am comfortable with reducing the  
3 reinsurance. I prefer that greatly to eliminating  
4 reinsurance altogether.

5 My concern with eliminating it altogether is that  
6 I don't think the risk adjustors can fully reflect the  
7 costs of these outliers, and even -- risk adjustment just  
8 in general is not great with outliers, so reducing it but  
9 not eliminating it makes sense.

10 My concern is that I don't want plans to have  
11 incentives to avoid certain people. I'm concerned about  
12 that, and I'm concerned with the plan flexibility changes  
13 not reinforcing those incentives to avoid certain people,  
14 making their formulary that certain people aren't going to  
15 want to join that plan.

16 So just striking the right balance when we're  
17 thinking about all this stuff is something that we need to  
18 do. So I'm not against any of this stuff, but just we need  
19 to keep that kind of thing in mind.

20 Building off of what Jack said, I really liked  
21 his idea of in the future, as we think about this, in terms  
22 of the risk corridors, maybe having some kind of ad hoc

1 adjustment when there are shocks and doing it that way as  
2 opposed to this risk corridor system.

3           But what I would do is perhaps combine that maybe  
4 with a one-sided risk corridor where the one-sided is only  
5 the plans have to pay back if they have gains that are  
6 higher than the target, so they would get kind of the other  
7 side enter, that ad-hockish kind of change, but keeping --  
8 because we've seen, except for perhaps this year and next  
9 year -- we don't know what's going to happen in the longer  
10 term -- the history of this has been that plans have paid  
11 in, and you don't want to lose that recapture. So, as we  
12 think about this kind of in the future, just kind of maybe  
13 including that in the list of things.

14           I think that's it. I think the other stuff --  
15 just again I just want to make sure that -- and I think we  
16 are trying to do this, but just trying to strike the right  
17 balance to making sure that plans don't have incentives to  
18 avoid certain people.

19           DR. CROSSON: Thanks, Cori.

20           Jack, you've made your points.

21           DR. HOADLEY: I want to come back at some point  
22 on --

1 DR. CROSSON: Well, go ahead.

2 DR. HOADLEY: So, this notion of sort of where  
3 does the reinsurance play in. I think one of the things  
4 that's important to keep in mind -- and it's based on the  
5 analysis that Shinobu did a few years ago -- is a lot of  
6 the people who are up in that reinsurance range, up in the  
7 catastrophic range, from the beneficiaries' perspective,  
8 are not necessarily the people who are taking these big,  
9 high-cost specialty drugs although there may be more of  
10 them, and that seems to be the trend. But there's a whole  
11 bunch of the people that are populating that category that  
12 are the polypharmacy people that Rita has talked about and  
13 the new study highlighted.

14 And that's where -- and so the reinsurance is  
15 dealing with the aggregate cost of the person, not sort of  
16 by class. So I think that's why we really want to try to  
17 turn some of that incentive, yes, to deal with the high-  
18 cost drug cases and make sure that when the PCSK9s hit the  
19 ground that they're not overused by a lot of people for  
20 whom they're not appropriate.

21 But we also want to have people dealing with the  
22 people that are taking 5, 10, 15 drugs and getting a higher

1 incentive to do the medication therapy management to  
2 address do the people really need to be taking these drugs,  
3 and that's where the plan kind of gets something of pass  
4 today. They have to do an MTM program. We don't think  
5 they're doing it all that well or enthusiastically, and  
6 they get a whole lot of their costs picked up. So if they  
7 let some of those people become high spenders, okay, that's  
8 just part of the cost of doing business.

9           What we're trying to do is make it more their  
10 cost of doing business and to give them more incentive to  
11 address some of those needs, and I think that's where these  
12 pieces can start to come together.

13           DR. CROSSON: Kate.

14           DR. BAICKER: So this is probably overly  
15 simplistic, but I think of the reinsurance piece as the  
16 important complement to the imperfection of the risk  
17 adjustment, as Dave was bringing up. You don't want plans  
18 to have a disincentive to enroll high-cost people. To the  
19 extent that the risk adjusters aren't perfect, the  
20 reinsurance helps pick that up.

21           So, if you're thinking narrowly about the cream-  
22 skimming incentive, you can be a little less concerned

1 about somebody who gets a new diagnosis in the middle of  
2 the year because they're already enrolled. So the cream-  
3 skimming component is about subsequent years, and that  
4 person's new diagnosis won't be new in the next year.

5           If you think about a different risk to the plans  
6 of suddenly there's a new drug for a group of patients that  
7 makes them much more expensive, that's financial risk.  
8 That doesn't play into the cream-skimming issue. That's  
9 about protecting them against broad, secular changes in  
10 cost that they can't protect themselves against because it  
11 affects a big group of patients.

12           If it's a narrow group of patients, I don't see  
13 such a strong need for federally backed reinsurance.  
14 They've got a lot of covered lives even if it's an  
15 incredibly expensive thing, if it's a small group of  
16 patients. They're insurers. They're supposed to be  
17 pooling risk, and so they should be able to handle that.

18           If it's a big group of patients, where suddenly  
19 this is a hard risk to offload because there aren't enough  
20 patients to balance it with, that's where the risk  
21 corridors come in.

22           And we're not talking about changing the risk

1 corridors. So it feels like they're pretty well covered  
2 against these various risks.

3           And I'm very much in favor of thinking about the  
4 reinsurance and the adequacy of the risk adjusters as one  
5 piece because they're tools to address the same issues.  
6 And I don't think we need to think about deploying them to  
7 deal with the big-bucket changes that can be addressed  
8 through some of those other policies.

9           DR. CROSSON: Alice.

10           DR. COOMBS: So I like the prix fixe menu. I  
11 just have problems with one aspect.

12           DR. BAICKER: Would you want a substitution?  
13 There's an up-charge for that.

14           [Laughter]

15           DR. COOMBS: Well, so for the reinsurance of 20  
16 percent and the discussion around the incentive to take  
17 care of very sick people, I just question whether or not 20  
18 percent is that right mark for that to happen.

19           First of all, the paper was really, really  
20 incredible because it explained so many different things.  
21 And I think that from what I assume in the paper is that  
22 the premiums are going to be readjusted to deal more

1 accurately, which is what they should be doing currently.

2 So that part I have no problem with.

3           But the preferred pharmacy networks -- taking the  
4 LIS and subjecting them to this whole differentiation with  
5 the now multiple generic copays for the preferred generic  
6 versus the nonpreferred generic, and then now the preferred  
7 pharmacy network, I think it could be problematic for this  
8 very group, this population, in terms of just understanding  
9 that although there are low-income subsidies or other  
10 things, there may be barriers for them to be fully  
11 participatory with the preferred pharmacy network.

12           So that would be problematic for me, but the prix  
13 fixe menu I think at \$35 is good.

14           DR. CROSSON: So, I mean, I think that's a good  
15 point. I mean, there are travel problems for people of low  
16 income, for example.

17           As we work this through, can we look at this  
18 issue in the commercial world? Is this possible to do?  
19 The impact on Part B recipients outside of Medicare created  
20 by the tiered pharmacy process, is that information --

21           DR. SCHMIDT: You mean the extent to which non-  
22 Medicare plans are using tiered networks?

1 DR. CROSSON: Well, yeah. And maybe I'm asking  
2 something that's impossible, but to the extent to which  
3 that's a problem for their patients or members or whatever  
4 you want to call them.

5 DR. SCHMIDT: Whether there are access issues.

6 DR. CROSSON: Yes, access issues.

7 DR. SCHMIDT: And we can also bring -- I think,  
8 was it last year CMS was looking at the beneficiary access  
9 with respect to these preferred networks? And we can bring  
10 some of that work before you.

11 DR. CROSSON: Right. So we can get some more  
12 information on that.

13 DR. MILLER: And I think at least some of that,  
14 if I'm remembering when we were talking about it at that  
15 point in time, is you can say you can use this -- for  
16 example, you can use this tool, but there are, like there  
17 are with network requirements now, certain requirements  
18 about how far --

19 DR. CROSSON: How far.

20 DR. MILLER: -- somebody has to travel and that  
21 type of thing.

22 And we were talking about a bit of that. I'm not

1 sure we had real specifics, but we were talking about a bit  
2 of that.

3 Am I getting a nod, or what am I getting? A yes?  
4 You're doing that poker face thing.

5 MS. SUZUKI: We also commented in the letter  
6 about maybe there should be a standard for the narrower  
7 preferred pharmacies to ensure that most people have access

8 DR. MILLER: Right. That's where I was thinking  
9 about it. We can bring some stuff back, and we might be  
10 able to have an adjustment to the policy that could  
11 potentially address your concern.

12 DR. CROSSON: Sorry. Shinobu, a standard in  
13 terms of travel time? A standard in what?

14 MS. SUZUKI: Just travel time, distance.

15 DR. HOADLEY: I mean, current law says that -- or  
16 current CMS policy has a time and distance standard for  
17 your overall pharmacy network, but that same standard does  
18 not apply to the inner part of the network, the preferred  
19 pharmacy network. So those can fail to meet that standard,  
20 and what CMS found was that for some plans they did not  
21 meet that within their smaller network. So that's where  
22 that issue comes up.

1 DR. MILLER: And then that's where we call for an  
2 adjustment.

3 DR. SCHMIDT: And that was mostly in urban areas  
4 if I remember correctly.

5 DR. HOADLEY: It's sort of the WalMart  
6 phenomenon. Some of the plans went strictly with WalMarts,  
7 and you've got a lot of big cities where there's no WalMart  
8 in the city. Now that's changing as well. But if they go  
9 with a particular chain and the chain is not well-  
10 represented in certain areas, that's kind of what happens.

11 DR. CROSSON: Okay. Additional? Is that a  
12 finger or a hand? Sorry, Jon.

13 Sorry. Go ahead, Rita, and then Jon.

14 DR. REDBERG: It's related to sharing risk but  
15 not what we talked about, but just as we're closing.  
16 Perhaps in the future I'm wondering if we've considered  
17 looking at fraud in the Part D plans.

18 And I mention it only because I happened to be  
19 talking to a pharmacy benefit manager who works with both  
20 commercial plans and Medicare Part D plans, and he was  
21 telling me that there's a lot less fraud detection going on  
22 in the Medicare Part D plans. There was a particular

1 instance he told me about someone who was getting their 30-  
2 day medicine refilled every few days, saying they had lost  
3 the prescription, but they were for high street-value  
4 drugs, where after a few months of that it seemed someone  
5 should be looking into it. And he said it took years in  
6 the Medicare plan to get anyone to address it, where in a  
7 commercial plan...

8           And I don't know if that is a one-off case or  
9 something more common, but it seems that with particularly  
10 everything else we're looking at, that could be driving up  
11 costs as well.

12           DR. CROSSON: Okay, Jon.

13           DR. CHRISTIANSON: Yeah, I think that street-  
14 value issue is going to be interesting for other drugs we  
15 don't think about now because when you talk about \$80,000  
16 or \$90,000 for a drug, and if you don't do a 2-week but you  
17 do a whole course of treatment, there is a resale value to  
18 that. But that wasn't what I was going to say.

19           Jack, I think, kind of convinced me or got me  
20 moving towards thinking that having an out-of-pocket cap  
21 for beneficiaries in terms of drug spending is -- there's  
22 plenty of precedent for that, and it's not a bad idea. But

1 we didn't talk about it. So in the future will we be  
2 talking about, I guess, what the cost of that is,  
3 incremental cost of that, and do we need to find other  
4 places then, as is our habit, to try to figure out where to  
5 cover that cost to Medicare?

6           And then I guess the last thing is -- this is  
7 really naive, but if I were a taxpayer and subsidizing this  
8 program to the extent taxpayers do, and somebody said, here  
9 are two identical drugs, they're absolutely identical  
10 drugs, one has a different name than the other, and it's  
11 okay with Medicare that you get to choose the drug that's  
12 the higher cost with the different name, and we'll pay part  
13 of that -- that wouldn't compute to me as a taxpayer, I  
14 guess, but maybe that's just naive. Maybe there aren't  
15 many drugs where the generic is identical to the brand.

16           SPEAKER: There are a lot.

17           DR. CHRISTIANSON: We're continuing to say that's  
18 okay with this approach, and that just continues to bother  
19 me.

20           DR. CROSSON: Okay. This was a good discussion  
21 and an excellent presentation.

22           So the plan here is to take the input that you

1 have given us, all of which was very good, come back in  
2 March with a revised package. There will still be some  
3 opportunity then to work on it again and make suggestions.  
4 And then the idea is to bring it back in April for a vote  
5 for the series. I would say again, if possible, a package  
6 of recommendations which we would vote on as a package  
7 after having deliberated in March and April. And then,  
8 making the chapter in June, as we've mentioned before, both  
9 comprehensive in terms of the information presented, which  
10 will be broader than our areas of recommendation, but also  
11 will contain our recommendations on Part D and Part B  
12 depending upon our success after lunch.

13           Okay. Thank you, Rachel and Shinobu.

14           Now we have an opportunity for public comment.  
15 So I'd ask any individuals in the audience who would like  
16 to make a comment at this point to come up to the  
17 microphone so I can see how many of you there are.

18           Assuming my microphone is working, I see none.  
19 So we are adjourned until 12:45.

20           [Whereupon, at 11:47 a.m., the meeting was  
21 recessed, to reconvene at 12:45 p.m. this same day.]

22

## AFTERNOON SESSION

[12:49 p.m.]

1  
2  
3 DR. CROSSON: Okay. It's time to start the  
4 afternoon session. We're going to be discussing Part B  
5 drug payment issues once again, and as I mentioned this  
6 morning at the beginning of this morning's session, we're  
7 coming back to a set of issues we've talked about before.  
8 And our intention here is to try to sharpen our focus so  
9 that later in MedPAC's term, we can get to some specific  
10 recommendations, hopefully by March, discuss those again,  
11 with the potential for a final recommendation and vote in  
12 April and inclusion into the June chapter.

13 So we've got Kim, Ariel, and Dan, and who is  
14 going to begin the discussion? Kim?

15 MS. NEUMAN: Good afternoon. We are going to  
16 continue our discussion of two Part B drug issues that we  
17 talked about last cycle and that were included in a chapter  
18 in the June 2015 report.

19 The first issue relates to the payment formula  
20 for Part B drugs, which is the average sales price plus 6  
21 percent. The second issue relates to payment for Part B  
22 drugs in 340B hospitals.

1           So, today, our presentation will go as follows.  
2   First, I will review background on Part B drugs and the  
3   average sales price payment system, and then I'll present  
4   some policy options that would alter the ASP payment  
5   formula to include a flat fee add-on. Finally, I'll touch  
6   on some other issues relevant to Part B drug payment  
7   policy.

8           Then Ariel and Dan will discuss background on the  
9   340B drug pricing program and discounts, and then present  
10  policy options concerning payment for Part B drugs in 340B  
11  hospitals.

12           Before we begin, we would like to thank Joan  
13  Sokolovsky, Nancy Ray, Rachel Schmidt, and Shinobu Suzuki  
14  for their contributions to this work.

15           In 2014, Medicare spent more than \$20 billion on  
16  Part B-covered drugs. Most Part B drugs are infused or  
17  injected in physician offices or hospital outpatient  
18  departments. This includes expensive biologics and drugs  
19  for conditions like cancer, rheumatoid arthritis, and  
20  macular degeneration, as well some more commonly used  
21  inexpensive products like corticosteroids and vitamin B12,  
22  for example.

1           Part B also covers a limited set of drugs  
2 furnished by DME suppliers and pharmacies, such as  
3 inhalation drugs and immunosuppressives.

4           Medicare pays providers for most Part B drugs at  
5 a prospective rate equal to 106 percent of the average  
6 sales price, often referred to as ASP+6. Note that this  
7 ASP+6 payment is for the drug. Medicare pays makes an  
8 additional, separate payment to the provider for  
9 administering the drug under the physician fee schedule or  
10 the outpatient prospective payment system.

11           As you'll recall, a drug's ASP is the average  
12 price realized by the manufacturer based on sales to all  
13 purchasers, with some exceptions, net of rebates,  
14 discounts, and other price concessions. The price an  
15 individual provider pays may differ from ASP; for example,  
16 due to price variation across purchasers or other reasons.

17           As we've discussed previously, concern has been  
18 expressed by Commissioners and stakeholders that the 6  
19 percent add-on to ASP gives providers a financial incentive  
20 to prescribe higher-priced drugs, although few studies  
21 exist looking at whether the 6 percent add-on is  
22 influencing prescribing patterns.

1           Last spring, we explored some alternatives to the  
2 6 percent add-on that incorporate a flat fee as a way to  
3 reduce the potential incentives for use of higher-priced  
4 drugs. Building on that work today, we have developed two  
5 policy options that are alternatives to the 6 percent add-  
6 on. Both are estimated to be budget neutral to 106 percent  
7 of ASP based on 2014 claims data and assuming no  
8 utilization changes.

9           The first option is 102.5 percent of ASP plus  
10 about \$17 per drug administered per day. You will notice  
11 that this first option looks like an option from last  
12 spring but has a higher flat fee. This is largely because  
13 we moved from using 2013 claims data to 2014 claims data  
14 for the basis of budget neutrality.

15           The second option is 104 percent of ASP plus just  
16 under \$10 per drug administered per day. This is like  
17 option 1, except we retain more of the percent add-on and  
18 therefore have a smaller fixed fee.

19           A couple other things of note. We applied this  
20 model to drugs administered in physician offices and  
21 outpatient hospitals. We address the small group of Part B  
22 drugs furnished by DME suppliers and pharmacy suppliers

1 separately later in the presentation.

2           Also, all of our modeling focuses on the pre-  
3 sequester payment rates.

4           So this chart shows you what happens to the  
5 payment rates for differently-priced drugs under current  
6 policy compared to the two options. The price of the drug,  
7 as measured by the ASP per administration, is in the first  
8 column.

9           Now, looking at the first line, we have the  
10 example of a low-priced drug with an ASP per administration  
11 of \$10. You can see that under current policy, that drug  
12 is paid \$10.60. Medicare's payment for this drug would  
13 increase under the two policy options. The payment would  
14 be about \$27 under option 1 and \$20 under option 2.

15           Now looking at the last line in the chart, we  
16 have an example of high-priced drug with an ASP per  
17 administration of \$5,000. Under current policy, this drug  
18 would be paid \$5,300. Under options 1 and 2, it would be  
19 paid less, \$5,142 under option 1 and \$5,210 under option 2.

20           The last two columns on the line gives you a  
21 sense of how close these new payment amounts are getting to  
22 ASP. For this 5,000 drug, option 1 is equates to about

1 102.8 percent of ASP, and option 2 equates to about 104.2  
2 percent of ASP.

3           And one last point, as I mentioned before, all of  
4 these estimates are based on pre-sequester payment rates.

5           As we saw on the last slide, both policy options  
6 would increase add-on payments for low-priced drugs and  
7 decrease add-on payments for high-priced drugs. Overall,  
8 these changes may increase the likelihood that a provider  
9 would substitute a low-priced drugs for a high-priced drugs  
10 where therapeutic alternatives exist.

11           Since these polices reduce add-on payments for  
12 very expensive drugs, it is possible that small practices  
13 may have difficulty purchasing very expensive drugs at the  
14 Medicare payment rates. But this would depend on how much  
15 the add-ons are reduced for expensive drugs and also how  
16 manufacturers would respond to Medicare payment changes.  
17 For example, when Medicare moved to the ASP payment system  
18 in 2005, there is some evidence that price variation across  
19 purchasers shrunk. It's possible something similar could  
20 happen with these policy options.

21           Like any payment changes, there may be  
22 opportunities for gaming with a flat add-on that Medicare

1 would want to monitor for; for example, monitoring to  
2 ensure providers do not respond to a flat-add-on by  
3 providing drugs in smaller, more frequent doses, or by  
4 overusing low-priced drugs.

5           These policy options would redistribute revenues  
6 across providers. A flat fee add-on increases payments to  
7 physicians overall and decreases payments to hospitals.  
8 Among physicians, those specialties that tend to rely on an  
9 inexpensive mix of drugs, like primary care, would see an  
10 increase in their Part B drug revenues. Specialists that  
11 tend to rely on expensive drugs, like oncologists,  
12 rheumatologists, and ophthalmologists, would see a decrease  
13 in their Part B drug revenues.

14           To illustrate this, you can see on the slide how  
15 Part B drug revenues change for the various types of  
16 providers under option 2.

17           The effect of these policy options expressed as a  
18 percent of a provider's total Medicare revenues for all  
19 services is, of course, much smaller, and that is shown in  
20 your paper.

21           In addition to these policy options, your mailing  
22 materials included information on a couple other topics

1 relevant to Part B drug payment policy. I will touch on  
2 these briefly now and would be glad to discuss more on  
3 question.

4 First, there is the issue of the dispensing and  
5 supplying fees that Medicare Part B pays to pharmacies and  
6 other suppliers for inhalation drugs; and  
7 immunosuppressives, oral anticancer, and oral antiemetic  
8 drugs. These fees are on top of Medicare's ASP+6 payment.  
9 And the OIG reports that Medicare is paying substantially  
10 more for dispensing fees than Part D or Medicaid.

11 Next, we have information on two structural  
12 approaches that some advocate for as ways to address  
13 concerns about providers' incentives for Part B drugs.  
14 First is a drug competitive acquisition program. Under  
15 this kind of approach, the Medicare fee-for-service program  
16 would pay a competitively selected vendor to supply Part B  
17 drugs to physicians rather than pay the physicians directly  
18 for the drugs.

19 Per the Medicare Modernization Act, Medicare  
20 implemented a voluntary program like this from 2006 through  
21 2008, but the program was suspended. Physician uptake of  
22 the program was low, and Medicare wound up paying more than

1 ASP+6 to the vendor.

2 Another structural approach would be to shift  
3 coverage of Part B drugs to Part D. The financial effects  
4 on the program and beneficiaries go in several directions.  
5 From a logistical standpoint, it would be complicated to  
6 have Part D pay for drugs administered in physician offices  
7 and outpatient hospitals, but it might be easier to do so  
8 for inhalation drugs, immunosuppressive drugs, and other  
9 oral Part B drugs, since these drugs are commonly furnished  
10 by pharmacies.

11 So now I will turn it over to Ariel and Dan to  
12 discuss 340B.

13 MR. WINTER: We discussed the 340B program in  
14 prior meetings and in two reports earlier this year, in May  
15 and in June. So I'll start with a brief overview.

16 The 340B program allows certain hospitals and  
17 other health care providers, known as covered entities, to  
18 obtain discounted prices on covered outpatient drugs from  
19 manufacturers. Covered outpatient drugs include  
20 prescription drugs and biologics, other than vaccines.

21 Covered entities include disproportionate share  
22 hospitals, critical access hospitals, other types of

1 hospitals, and clinics that receive certain federal grants  
2 from HHS.

3           The discounts that providers receive on drugs are  
4 based on the ceiling price. This is the maximum price a  
5 manufacturer can charge for an outpatient drug under 340B.

6           As we described in our June report, this program  
7 has grown rapidly since 2005, both in terms of spending on  
8 outpatient drugs and the number of covered entities.

9           Medicare Part B pays for many 340B drugs  
10 provided to beneficiaries. Under the outpatient PPS,  
11 Medicare pays same rates for drugs to 340B and non-340B  
12 hospitals, even though 340B hospitals can buy outpatient  
13 drugs at a substantial discount.

14           Spending by Medicare and beneficiaries for Part B  
15 drugs at 340B hospitals that are paid under the outpatient  
16 PPS grew from \$0.5 billion in 2004 to \$3.8 billion in 2014.

17           340B hospitals can generate revenue from Part B  
18 drugs because the Medicare payments they receive for the  
19 drugs exceed the discounted prices they pay.

20           The 340B statute does not restrict how revenue  
21 generated through the program can be used. Therefore,  
22 hospitals can use these funds for any purpose, such as

1 expanding the number of patients served, increasing their  
2 scope of services, investing in capital, or covering  
3 administrative costs. The statute does not require  
4 hospitals to track or report how they use revenue from the  
5 340B program.

6 In our June report, we estimated the discount  
7 that 340B hospitals receive on outpatient drugs. We have  
8 since updated this estimate using data from 2014. I won't  
9 review the method in detail here, but it's covered in your  
10 paper and the June report.

11 The basic equation is that the discount equals  
12 ASP minus the ceiling price. Because much of the data used  
13 to calculate ceiling prices are confidential, we are not  
14 able to precisely calculate these prices. Therefore, our  
15 estimate understates the discount; in other words, the  
16 actual discount is probably higher. We estimate that  
17 average discount was at least 22.7 percent of ASP in 2014.

18 Next, Dan will talk about the net savings on Part  
19 B drugs received by 340B hospitals.

20 MR. ZABINSKI: We found that in 2014 that 340B  
21 hospitals received \$3.8 billion in Medicare payments for  
22 Part B drugs, and using the formula for drug discounts that

1 Ariel just covered, we also estimate that 340B hospitals  
2 paid no more than \$2.8 billion to acquire those drugs, and  
3 this is an upper bound on their acquisition cost.

4           The receipt of the \$3.8 billion in revenue minus  
5 an upper bound of \$2.8 billion for acquisition costs  
6 indicates that 340B hospitals had net savings of at least  
7 \$1 billion on Part B drugs in 2014, and these net savings  
8 were 1.2 percent of their overall Medicare revenue for 340B  
9 hospitals and 4.3 percent of their Medicare OPD revenue.

10           And for most categories of hospitals, net savings  
11 as a share of overall Medicare was close to the overall  
12 average of 1.2 percent. Net savings as a share of overall  
13 Medicare revenue was lowest among rural hospitals at .9  
14 percent and highest among major teaching hospitals at 1.4  
15 percent.

16           In our June 2015 report, we raised the issue of  
17 whether Medicare payment rates for Part B drugs should be  
18 lower than ASP+6 percent for drugs obtained at 340B prices  
19 by 340B hospitals. The lower payment rates in 340B  
20 hospitals would allow Medicare and beneficiaries to share  
21 in the discounts of the 340B program. However, reducing  
22 the payment rates would obviously reduce hospitals' revenue

1 from the 340B program, so policymakers may want to limit  
2 any reductions in payments so that these hospitals can  
3 retain a share of the revenue from the Part B drugs.

4 Next.

5 And for today, we have considered three options  
6 for reducing Part B payment rates for 340B drugs, ensuring  
7 the savings with Medicare and beneficiaries. In all three  
8 options, the Part B payment rates would continue to include  
9 the add-on of 6 percent of ASP.

10 In option 1, payment rates for each drug would be  
11 reduced by 22.7 percent of ASP, which is our lower-bound  
12 estimate of the average discount that hospitals receive on  
13 340B drugs. The savings would be shared by Medicare and  
14 beneficiaries, where Medicare would get about 80 percent of  
15 the savings and beneficiaries would get the remaining 20  
16 percent because those are the shares of the current payment  
17 rates that the two are responsible for.

18 Under option 2, payment rates for each drug would  
19 be reduced by 10 percent of ASP. We chose 10 percent  
20 because it's approximately half of the full discount  
21 received by 340B hospitals. Once again, these savings  
22 would be shared by Medicare and beneficiaries.

1 Under option 3, payment rates would be reduced by  
2 22.7 percent of the current cost-sharing amount for each  
3 drug. Another way to look at this is the savings is equal  
4 to the amount that beneficiaries save under option 1. In  
5 this case, beneficiaries would get all the savings, and  
6 payments by Medicare would not change from current levels.

7 To summarize this, option 1 takes the full  
8 discount out of the payment rates for 340B hospitals,  
9 option 2 takes about half of the discount, and option 3  
10 takes the cost-sharing portion of the full discount.

11 In this diagram, we show how current policy and  
12 the three options work for a given drug that has an ASP of  
13 \$100. In the first column, we show current policy, where  
14 payment to a hospital is the \$100 ASP -- and that's the red  
15 portion -- plus the 6 percent add-on, which is the yellow  
16 portion in the first column. This results in a payment to  
17 the hospital of \$106.

18 The second column illustrates option 1. The red  
19 portion is smaller than in the first column because we've  
20 removed 22.7 percent of the ASP from the hospital's payment  
21 and shared it with the program, which is the green portion,  
22 and the beneficiaries, which is the light blue portion.

1 Payment to the hospital is now the smaller red portion  
2 combined with the 6 percent add-on, which would result in a  
3 payment to the hospital of \$83.30.

4           The third column illustrates option 2. The red  
5 bar here is higher than under option 1 because now we've  
6 removed only 10% of the ASP from the hospital's payment and  
7 shared that with the program, once again the green portion,  
8 and the beneficiaries, which is the blue portion. And in  
9 this situation, payment to the hospital is \$96.

10           The final column illustrates option 3. Here,  
11 we've moved 22.7 percent of the cost sharing -- from the  
12 red bar -- which is 4.5 percent of the ASP, and we removed  
13 that from the hospital's payment and shared it with the  
14 beneficiaries, which is the blue portion. Here, the  
15 payment to the hospital would be \$101.50.

16           On this table, we show the estimated savings to  
17 Medicare and beneficiaries under the three options. For  
18 options 1 and 2, combined savings are \$830 million and \$365  
19 million, respectively. Under these two options, Medicare  
20 gets 80 percent of the savings, and beneficiaries get about  
21 20 percent.

22           Note that early on slide 13, we said that total

1 savings in the 340B program is \$1 billion, while here we  
2 say option 1 has total savings of \$830 million. The  
3 difference is that the \$1 billion in total savings to 340B  
4 hospitals on slide 13 includes the 6 percent add-on, while  
5 the \$830 million in savings to the program and  
6 beneficiaries on this slide does not include the 6 percent  
7 add-on because that stays with the hospitals.

8           Option 3 is different from the other two because  
9 all the savings goes to beneficiaries' cost sharing, and  
10 the program gets no savings, but note that the savings in  
11 cost sharing is the same in option 1 and option 2 at \$150  
12 million, and this was by design.

13           DR. MILLER: You said 1 --

14           Next. What's that? Oh, 1 and 3. Oh, did I  
15 misspeak?

16           DR. MILLER: Yeah.

17           MR. ZABINSKI: Okay, 1 and 3. Yeah.

18           As part of your discussion, please let us know  
19 any clarifications we can provide. Also, let us know of  
20 any additional information you would like.

21           Finally, we seek reactions to the options for  
22 changing the ASP payment formula and the other issues that

1 Kim talked about and also reactions to the options for  
2 payment for Part B drugs in 340B hospitals that Ariel and I  
3 talked about.

4 And now we turn things over to Jay and the  
5 Commissioners.

6 DR. CROSSON: Thanks very much. We're going to  
7 do clarifying questions. I am going to start with two  
8 myself.

9 So on slide 17, these are one year savings;  
10 correct?

11 DR. ZABINSKI: Yes.

12 DR. CROSSON: So 10-year savings would be some  
13 multiple of that. Okay.

14 And the other one is Kim, I might ask you, if you  
15 would, to expand a little bit on the issue of the fees paid  
16 to suppliers and the dispensing fee piece of this. We had  
17 some discussion of that in the pre-reading we had, but less  
18 here. And I think if you could go over a little bit of  
19 that, as well as the numbers, that would be helpful.

20 MS. NEUMAN: So, Medicare pays for certain drugs  
21 that are furnished by DME suppliers and pharmacies. So  
22 inhalation drugs, immunosuppressives for Medicare covered

1 transplants, certain oral anti-emetics and oral anticancer  
2 drugs. And when these drugs are provided by these  
3 pharmacies, Medicare pays ASP+6 percent and, in addition,  
4 pays a dispensing or supplying fee to the supplier.

5 The fees are substantial. The inhalation drug  
6 dispensing fee is \$33 per 30-day supply of drugs or \$66 per  
7 90-day supply of drugs, no matter how many drugs are in  
8 that supply. And then there's a higher fee for the very  
9 first one in a beneficiary's lifetime.

10 And then with the supplying fees, it's \$24 per  
11 30-day prescription and \$16 for each subsequent  
12 prescription in that 30-day period and then again a higher  
13 fee for the first immunosuppressive prescription after a  
14 transplant.

15 The OIG has looked at what other payers pay,  
16 Medicare Part D and Medicaid, and found that they are  
17 paying less than \$5 in dispensing fees for these same kinds  
18 of drugs.

19 DR. CROSSON: Thanks very much.

20 So let's see hands for clarifying questions?  
21 We'll start down this way. Cori.

22 MS. UCCELLO: So on slide 6, trying to think

1 through maybe unintended consequences of this, making sure  
2 to monitor whether the flat add-on doesn't lead to more  
3 frequent dosing.

4           The proposals are per drug per day; right? So  
5 it's not just -- you wouldn't be splitting things up to  
6 multiple times a day. So how often is it that something is  
7 prescribed that's kind of less frequently than a day, that  
8 then would become more frequent? Does that make sense?

9           MS. NEUMAN: That's, I think, a clinical  
10 question. Some of you might be better positioned to answer  
11 that than I am.

12           The concern, just in general, would be if you  
13 have the choice of bringing someone back every couple weeks  
14 versus every week, would that affect your decision making?  
15 And I think, you can see in the options, some of the fees  
16 are bigger than options and it's bringing someone back into  
17 the office. So would that level of flat fee really be  
18 worth it to do something like that, would have to be  
19 thought through.

20           DR. CROSSON: Any clinicians want to weigh in on  
21 that? I certainly don't. Alice.

22           DR. COOMBS: I'll take a crack at it. It's not

1 just bringing them in, and I said this the last time we  
2 talked about whether it's necessary to be monitoring at the  
3 same time. There might be other monitoring things that  
4 you're doing simultaneously with the frequency of the  
5 visit.

6           So for instance, new oral anticoagulants, if  
7 there was some kind of restriction on that, you might use  
8 it as an opportunity -- because there's no laboratory that  
9 you would use in that case. But other drugs you might use  
10 as an opportunity to do other things. So you might have  
11 increase in the clinical services because of the frequency  
12 of the visits that would be necessary. So it might be a  
13 double effect.

14           DR. BAICKER: But are there drugs -- how many  
15 drugs are there where there's an option to do it once every  
16 week versus once every two weeks and either one would be  
17 okay? And this payment tweak would push towards half as  
18 much every week instead of twice as much every two weeks?

19           Or are there just very few drugs where you've got  
20 the option of varying frequency and dosage?

21           DR. COOMBS: I think this is an opportunity for  
22 telemedicine, but you know, with comorbid conditions you

1 could see that people might want to follow up say a person  
2 who is a brittle diabetic, who has a complex history with  
3 other comorbid conditions, that you might see an increase  
4 in another effect in terms of clinical visits in  
5 conjunction with that.

6 But I think that the tendency would probably not  
7 be to increase because there's usually saturation within  
8 the clinical sites in terms of, you know, you have a  
9 schedule that's fixed and, you know, you're bringing  
10 someone in solely for a renewal prescription and that  
11 becomes an issue with how busy the clinical side is.

12 DR. CROSSON: So I --

13 DR. REDBERG: So there is an opportunity to vary  
14 dosing often. Because you're looking at total dose daily  
15 or whatever.

16 DR. CROSSON: Right. But I mean, since we always  
17 underestimate the potential for gaming inherent in any  
18 payment system, I say this with some hesitation. But it  
19 doesn't seem like this one jumps out at you as a big risk.

20 DR. SAMITT: And I'd say that when you look at  
21 actually what the value would be of the fixed amount that  
22 would be recurring if you were to change the frequency of

1 the dosing, I'm not sure it's worth gaming the system for  
2 what this amounts to, at least in the analysis as shown.

3 So again, you're right. You never want to  
4 underestimate the potential of gaming, but in the scope of  
5 things it just doesn't seem that it's worth gaming.

6 DR. HOADLEY: And it's just important to  
7 remember, these are the physician-administered drugs we're  
8 talking about. So these are not just handing somebody a  
9 pill and then a question of maybe monitoring that. But  
10 this is, you know, an infusion in most cases or an  
11 injection.

12 DR. CROSSON: Clarifying questions coming up this  
13 way? Jack.

14 DR. HOADLEY: So on slide 5, and then it sort of  
15 plays out through the next couple of discussions, the  
16 impact at the different levels of cost of the drugs is  
17 obviously one of the things we're trying to play out here.

18 What would be useful to me, and I don't know if  
19 you have this kind of information, is how many of the drugs  
20 that we're talking about on the Part B side are in that \$10  
21 or lower kind of range? And how many are up there in the  
22 more \$5,000?

1           I mean, obviously as a dollar value, most of the  
2 game is in the expensive drugs. But how much is in that  
3 low end? And what kind of drugs are we talking about in  
4 that end?

5           MS. NEUMAN: So in Table 2 in your materials,  
6 there's a chart that shows you the distribution of drug  
7 administrations by the ASP+6 payment per day for that drug.  
8 And so you can see that lots of the administrations that  
9 are going on are very inexpensive, a little under 50  
10 percent are less than \$10. Now we're talking about things  
11 like corticosteroids, vitamin B12, saline, there's a few  
12 others.

13           So that's where there's a lot of administrations  
14 happening, but the dollars are very, very, very small.

15           And then the dollars are concentrated among a  
16 small group of drugs that make up a very small share of the  
17 administrations but are, you know, \$1,000, \$2,000, \$5,000 a  
18 shot.

19           DR. HOADLEY: Thank you. I had missed that table  
20 when I was reading the paper. Yes, I think it's helpful to  
21 think about what those are and clearly there is a lot of  
22 volume there as we think about this.

1           My other question was on the 340B and it sort of  
2 relates to the impact on slide 13. And I guess part of  
3 what I was trying to think about was impact by sort of type  
4 of hospital in terms of safety net. Obviously, DSH is one  
5 of the criteria to get into the 340B. But it would just be  
6 kind of a sense of among DSH hospitals what would be the  
7 impact? I don't know quite what the right way to divide  
8 the category but it would be interesting to see the impact  
9 along some kind of line so we kind of get a sense of what's  
10 going on in that sector?

11           DR. ZABINSKI: Page 35 of the paper has got a  
12 table that shows the revenue, acquisition costs, net  
13 savings. I think you were referring to the second full  
14 bullet on this slide?

15           DR. HOADLEY: Right.

16           DR. ZABINSKI: We've done analysis -- we didn't  
17 have the information to do that stuff in time to put it in  
18 the paper, but we've got it now. Most of the categories  
19 that we looked at, which include urban versus rural, major  
20 teaching, other teaching, non-teaching, government-owned  
21 versus other non profit. I looked at hospitals by size. I  
22 think that's about it.

1           Most of them were around the 1.2 percent average.  
2   The low was the rural hospitals, they were at 0.9, and the  
3   major teaching were at 1.4. Other ones, my recollection at  
4   least is they're quite close to the 1.2 percent.

5           DR. HOADLEY: And if you did the percent for just  
6   say the DSH hospitals, what kind of percent would we  
7   talking about there?

8           DR. ZABINSKI: Well, there's such a big share of  
9   the whole thing I would think that that would be around 1.2  
10  percent. They're the tail that wags the dog here. They're  
11  the big player.

12          DR. HOADLEY: I think that would just be an  
13  interest, to get that kind of a percentage to see -- I  
14  mean, it seems like it would have to be somewhat higher  
15  than that actually, to get the 1.2 on the average.

16          DR. MILLER: Yeah, except that the revenue basis,  
17  all the revenue is running through the DSH hospitals. So  
18  that's what's driving the average.

19          DR. HOADLEY: Okay.

20          DR. MILLER: That's what he's saying.

21          DR. HOADLEY: Because the other ones are the  
22  small hospitals?

1 DR. MILLER: Let me just make -- that's what  
2 you're saying; right?

3 DR. ZABINSKI: Yes.

4 DR. HOADLEY: And that's because most of the  
5 other 340B hospitals are more the small, rural categories?

6 DR. MILLER: It may be that but I think the point  
7 that Dan is making is you tend to -- and everybody tends to  
8 think about these impacts, teaching, non-teaching, DSH,  
9 non-DSH. And DSH are these many of all of the hospitals.  
10 But here, when you think about it in terms of  
11 money, all of the money is running through the DSH. I  
12 mean, virtually all of it.

13 DR. HOADLEY: Virtually all.

14 DR. MILLER: The table that Dan is referring to  
15 on page 35, I mean it's very small amounts not running  
16 through the DSH. So the DSH hospitals define the mean.  
17 And I think he's saying that's going to be 1.2.

18 DR. HOADLEY: Okay. Thank you, that helps.

19 DR. CROSSON: Clarifying questions. Alice.

20 DR. COOMBS: So I had a question about how  
21 constant is the discount that 340B gives? Is that  
22 something that we can assume that it doesn't fluctuate from

1 year to year?

2 DR. ZABINSKI: Well, we've done an analysis.  
3 This one is based on 2014. We did one for the June report  
4 that was based on 2013 data. The discount was 22.5 percent  
5 using 2013 data and 22.7 percent on the 2014 data. So  
6 that's an indication of some consistency, I think.

7 Most of these drugs -- like the discount rate for  
8 most of the drugs is 23.1 percent. So it's going to be --  
9 I think it's going to stay pretty consistent over time.

10 MR. WINTER: There are two aspects to the  
11 discount that we don't have information on, which are the  
12 best price -- which could vary from year to year, we don't  
13 know. And then the average manufacturer price. We are  
14 using ASP as a proxy for average manufacturer price and we  
15 believe ASP is usually lower than AMP. But AMP could  
16 fluctuate more than ASP.

17 And there's also an inflation rebate that's a  
18 portion of the actual discount that we have no information  
19 on. So that could also be fluctuating. And that basically  
20 provides a larger discount or rebate if the price of the  
21 drug is increasing faster than inflation as measured by  
22 AMP.

1           So there are factors that we have no information  
2 on so it's hard for us to judge how much it fluctuates year  
3 to year. The estimate that we did is based on proxies and  
4 it's an approximation of the discount but it's not the  
5 actual discount, if that helps.

6           DR. COOMBS: And there's absolutely no  
7 institution where you have a peek into what it really looks  
8 like or can use it as a proxy?

9           MR. WINTER: Well, we've done the best we can  
10 with the information that's publicly available. HRSA does  
11 have the ceiling prices but they're not allowed to share  
12 them publicly. They're allowed to share them with the  
13 covered entities but now with the general public or with  
14 us.

15          DR. CROSSON: Jon.

16          DR. CHRISTIANSON: I guess this is for Kim.

17                 I was looking again at the table on page 5 of  
18 your handout. I know the table wasn't constructed for this  
19 purpose but one of the issues that you raised was the  
20 possible incentive to prescribe higher cost drugs when  
21 lower cost ones might be available because of the way this  
22 is set up. You get ASP+6 percent so you get 6 percent of a

1 higher cost drug.

2           So obviously, to me, it seems like in these  
3 examples imagined the \$490 drug was the substitute for the  
4 \$5,000 drug can -- you'd still have the incentive to use  
5 the \$5,000 drug. You still make more money doing that.

6           So what I was wondering about is did you run any  
7 examples of where there were, in fact, commonly used --  
8 common situations where there was a high cost drug and one  
9 that actually did substitute for it where this might come  
10 into play? So we could get more of a sense of whether this  
11 change would actually change the incentives very much?

12           I mean, as long as you're going to make more  
13 money prescribing the high cost drug than the low cost  
14 drug, you're going to continue to prescribe the high cost  
15 drug, I would assume. Does that make sense? Do you  
16 understand --

17           MS. NEUMAN: No, I hear your question.

18           So two things. One, there will still, as you  
19 point out, be a difference in the add-on for between a high  
20 cost drug and a low cost drug. It's only going to reduce  
21 the difference. It's not going to make it go away.

22           And then as far as the question about

1 substitutes, we don't have an analysis right now comparing  
2 the incentives for two drugs that are substitutes. We  
3 could think about doing that. There may be places -- I'm  
4 thinking about anti-emetics or other kinds of things, where  
5 we might be able to take an example that's pretty clear  
6 cut.

7           But then there's all these chemo regiments with  
8 multiple drug cocktails and all of that. And that's what a  
9 lot of the dollars are on. To sort of try to do the  
10 substitute analysis would be much more challenging.

11           DR. CHRISTIANSON: I understand. I'm just not  
12 clear in my mind whether -- I mean, as long as you can make  
13 an extra dollar doing something, you should have the  
14 incentive to do it. So you cut that down from \$30 to \$20  
15 or something, you're still going to make more money.

16           So I guess I don't know how much any of these  
17 would -- in real life, any of these changes that we've  
18 proposed would actually affect a decision about whether to  
19 use a cheaper versus a more expensive drug. I don't have a  
20 feel for that from the examples, because they weren't set  
21 up to do that. I understand that.

22           DR. MILLER: Well, and I think part of the reason

1 you don't see a ton of this in the literature -- and we've  
2 talked about this internally a bit, about there is this  
3 real logic of 6 percent of a bigger number is a bigger  
4 number so I'm going to do the more expensive drug.

5           But I think part of the reason you don't see a  
6 ton of literature on this is precisely for what she said.  
7 A lot of this is cancer drugs and actually figuring out  
8 what the proper pairings are and what the incentives would  
9 be is fairly difficult and fairly case-by-case type of  
10 judgment. It's really based more on the logic of what the  
11 payment system is -- how the payment system is constructed.

12           DR. BAICKER: And isn't there also a lot of  
13 uncertainty about what their -- when we talked last time  
14 about whether to bring it down to just 100 percent, then  
15 there was some information about the uncertainty about the  
16 actual acquisition costs of any given entity and not  
17 wanting to go too far for risk of making it unaffordable  
18 for some entities that weren't getting the best pricing.

19           DR. CROSSON: Because this is the average sales  
20 price, not the -- and the distribution varies by drug.

21           DR. CHRISTIANSON: So my general point, I guess,  
22 is it's still pretty muddy to me what the actual change of

1 incentives would be here, and what actual behavior response  
2 we might expect to see.

3 DR. BAICKER: Except that we know 2 percent is  
4 less than 6 percent.

5 [Laughter.]

6 DR. CHRISTIANSON: Something will probably be, on  
7 the margin, affected. Something will be affected on the  
8 margin. Whether it's worth the change to have something  
9 affected on the margin or not is not clear to me.

10 The other general comment on 340B, and this isn't  
11 clarification so much as just something to share with the  
12 Commission that really made me sit up. On page 28 of your  
13 report, we have hospitals in the 340B program accounted for  
14 22 percent of Medicare spending on Part B drugs in 2004 and  
15 48 percent in 2013. So half of Medicare spending on Part B  
16 drugs is going through this 340B program, which I went --  
17 you know, I thought this was more of a technical issue than  
18 it is. It's not a technical issue. It's a lot of money.

19 So the implication in the way you presented that,  
20 to me, was that more hospitals are qualifying all the time  
21 -- at least they qualified under PPACA. And that's one of  
22 the reasons for the expansion.

1           But also, PPACA took away the DSH -- or we use  
2 the DSH funding for some of these hospitals. So being able  
3 to make money -- I will put it bluntly -- make money on  
4 Medicare to subsidize their operations becomes even more  
5 important and critical for these hospitals, given that  
6 they're not getting the DSH funds which was, in fact,  
7 designed to do that. So this is almost like a back door  
8 DSH payment to these hospitals, if I'm understanding it  
9 correctly.

10           So I guess I'm asking Ariel just to sort of react  
11 to that. Is that how you see it, or not?

12           MR. WINTER: We've not thought about it that way  
13 but we can go back and talk to our DSH experts, like Jeff,  
14 and think about that some more.

15           DR. MILLER: The thing I would say is what the  
16 PPACA did with DSH is it moved that dollar from a  
17 disproportionate share dollar to an uncompensated care  
18 dollar and then was to allocate on the basis of  
19 uncompensated care. And there's some overlap between a DSH  
20 hospital and an uncompensated care hospital but actually  
21 what was always kind of an awkward situation for years and  
22 years is they said well, DSH is for uncompensated care -- I

1 mean, different arguments for DSH are made at different  
2 points in time, depending on who's in the room. But  
3 sometimes it was for uncompensated care but the actual  
4 overlap between DSH and uncompensated care was not that  
5 high.

6           And then the other thing that's still going on --  
7 and I'm looking at Jeff to make sure I get this right -- is  
8 they didn't convert to allocating on the basis of the  
9 uncompensated care. They're still allocating on the basis  
10 of kind of a DSH Medicaid type of formula. So how much the  
11 actual legislation is done, moved the money is -- and I'm  
12 looking at Jeff -- not so much.

13           DR. STENSLAND: [off microphone.] The pie shrunk.

14           DR. MILLER: Yeah but --

15           DR. STENSLAND: [off microphone - inaudible.]

16           DR. MILLER: The distribution stayed similar and  
17 even the shrunk is, you know, the rhetoric is it's gone  
18 away but the shrunk is more like 11 to nine, something like  
19 that, in round numbers.

20           DR. CROSSON: Sue.

21           MS. THOMPSON: Are we still on clarifying  
22 questions?

1 DR. CROSSON: We are, indeed.

2 MS. THOMPSON: By policy or otherwise, are there  
3 any other programs that exist that allow hospitals to  
4 purchase drugs at a discounted price other than the 340B  
5 program?

6 MR. WINTER: We can think about that some more.  
7 We can't think of any right now.

8 MS. THOMPSON: Okay. And then on page 17, kind  
9 of building off the question around the DSH hospitals, what  
10 was the thinking about taking -- and I think I know the  
11 answer, but I want to hear you say it. What was the  
12 thinking about removing the critical access hospitals from  
13 this information?

14 MS. NEUMAN: The reason they're not in there is  
15 because they're not paid ASP+6.

16 MS. THOMPSON: Okay. They're paid on cost.

17 MS. NEUMAN: Yeah.

18 MS. THOMPSON: Okay.

19 DR. CROSSON: Sue, are you done?

20 [No audible response.]

21 DR. CROSSON: All right. Clarifying questions?  
22 Kathy. Rita?

1 MS. BUTO: Just a couple -- oh, did you have one,  
2 Rita? Go ahead.

3 DR. CROSSON: We had a late hand there.

4 DR. REDBERG: I was just trying to find the  
5 place.

6 On page 39 of the mailing materials, the appendix  
7 that just specifies the type of eligible hospitals, it  
8 seems like for 340B, how did freestanding cancer hospitals  
9 get in that mix? It doesn't -- it looks like a different  
10 kind of entity that rural and DSH hospitals.

11 MR. WINTER: These were added by PPACA in 2010,  
12 and I believe there were only two freestanding cancer  
13 hospitals that are in -- how many?

14 MR. ZABINSKI: Three.

15 MR. WINTER: There are three. Breaking news!  
16 Three freestanding cancer hospitals in 340B out of, I think  
17 -- how many other? Eight?

18 MR. ZABINSKI: Eleven.

19 MR. WINTER: Eleven. Three out of 11.

20 DR. REDBERG: Do you know what was the rationale  
21 behind adding those?

22 MR. WINTER: We don't know the rationale on -- I

1 don't believe there was a conference report that explained  
2 it. I mean, you can talk to people who were involved in  
3 the legislation who might have insight, but we're not aware  
4 of why that category was added.

5 DR. REDBERG: And where are those three?

6 MR. ZABINSKI: I know one of them is the one in  
7 Florida. Whichever one that is, I don't know.

8 MR. WINTER: There's one in California.

9 MR. ZABINSKI: There's one in California. Okay.  
10 And the other one might be MD Anderson, but I'm  
11 not certain.

12 DR. MILLER: But can certainly know --

13 DR. REDBERG: Thank you. It's a good thing it  
14 was.

15 [Laughter.]

16 DR. CROSSON: Kathy.

17 MS. BUTO: I have a question about -- there are a  
18 couple of materials. One was in the Tab A reading  
19 materials, and I think one was in the paper. I was trying  
20 to find it. I think it's on page 25, where we say that MA  
21 plans paid rates equivalent to ASP+7 to 13 percent for  
22 physicians and 14 to 32 percent for hospital OPDs. I'm

1 just curious about that and whether -- I know in MA plans  
2 and hospital DRGs, MA plans are able to choose the DRG  
3 payment rate. I think that's still true, and I wondered  
4 why they are paying higher amounts or higher rates than  
5 Medicare pays in its fee-for-service business. Do we have  
6 any idea?

7 MS. NEUMAN: So that provision that you're  
8 referencing with respect to inpatient and being able to  
9 refer back to that --

10 MS. BUTO: Yeah.

11 MS. NEUMAN: -- that doesn't exist relative to  
12 Part B drugs, and all I can tell you is sort of anecdotally  
13 when we've talked with a few plans, they say that hospitals  
14 won't accept lower rates. That's what we hear.

15 MS. BUTO: Well, it's also physicians according -  
16 -

17 MS. NEUMAN: Right. Right.

18 MS. BUTO: They're also paying physicians more,  
19 so I guess physicians also won't accept lower rates.

20 DR. MILLER: Well, but some of that is the  
21 consolidation. So if the hospital either is employing  
22 physicians or physician practices are getting larger,

1 they're able to extract higher rates.

2 MS. BUTO: Yeah.

3 DR. MILLER: We've had this -- well, I'll leave  
4 it there.

5 MS. BUTO: Yeah.

6 Let me ask one other, just sort of Round 1  
7 question. It has to do with the inhalation drugs in DME  
8 and the other drugs that are bundled with DME -- are not  
9 bundled with DME, I should say. This is ancient history,  
10 but I recall when I was at CMS, we realized that we had  
11 made a terrible mistake in actually not bundling that with  
12 the DME and somehow developing a combined payment rate.  
13 And I'm wondering, is that still by regulatory authority,  
14 or is that in statute now that the drugs have to be paid  
15 separately?

16 MS. NEUMAN: So the Medicare, when it established  
17 the ASP payment system, specifically put inhalation drugs  
18 under ASP+6 and did not allow them to go to competitive  
19 bidding. Under competitive bidding, there was that demo,  
20 and they got savings on the inhalation drugs, but not that  
21 substantial. And so I think the thinking was that they  
22 would do better on those drugs at ASP+6 than they would do

1 in some other approach.

2 MS. BUTO: Again, just to be clear, I wasn't  
3 talking about competitive bidding, just the drug. I was  
4 talking about a change that would actually bundle the cost  
5 of the drug into a combined payment with the DME.

6 MS. NEUMAN: And so it's not -- it is currently  
7 not permitted by statute. The drug has to be paid  
8 separately and at ASP+6.

9 DR. CROSSON: Clarifying questions? David.

10 DR. NERENZ: If we could just look quickly at  
11 slide 4, please, the first bullet.

12 Any of these changes that we're talking about  
13 would involve some cost of change, and they add some  
14 complexity, say, to the payment model. So, presumably, we  
15 do this to solve a problem. Are we solving a theoretical  
16 problem or a real problem? I'm curious. When you say few  
17 studies, can you give a couple examples of data on, say,  
18 overprescribing or inappropriate prescribing based on this  
19 6 percent?

20 MS. NEUMAN: So there have been a couple of  
21 pieces of work that have sort of touched on this issue.  
22 One is a study by Jacobson and colleagues, done, looking at

1 lung cancer prescribing patterns right before and after the  
2 ASP payment system went into effect, and in that city, they  
3 found that crossing that threshold between before ASP and  
4 after ASP, that use of the most expensive lung cancer  
5 choice among the drugs went up. So that's one example.

6 Another that sometimes people point to is with  
7 the least costly alternative policies for prostate cancer  
8 drugs. When those were removed, we saw movement toward the  
9 more expensive prostate cancer drugs. But then, as Mark  
10 has said, this is a very hard thing to study and know when  
11 is financial incentives is causing behavior versus clinical  
12 decision-making and individual patient characteristics.

13 DR. MILLER: The reason you got those two studies  
14 is because there was a change in policy, and somebody had  
15 the insight to use that as a research design and go after  
16 it, and it's hard to do it in a static environment.

17 DR. CROSSON: Jon.

18 DR. CHRISTIANSON: So just to follow up, the size  
19 of that change, those changes in those studies, how did  
20 that compare to the size of the changes you're modeling  
21 here?

22 MS. NEUMAN: The size of the change of the

1 payment?

2 DR. CHRISTIANSON: I'm just trying to follow up  
3 what David said.

4 MS. NEUMAN: Yeah. No, no. I'm trying to do the  
5 math. I think I should get back to you on that point  
6 because we're talking about how much did payments change by  
7 going from AWP-based payment to ASP-based payment versus  
8 how much do payment changes go from 106 percent of ASP to  
9 these.

10 DR. CHRISTIANSON: That's fair. That's fair.

11 MS. NEUMAN: This is probably less, but depending  
12 on how expensive the drug, so we'd have to -- we could get  
13 back to you.

14 DR. CHRISTIANSON: So, yeah, I think the few  
15 studies are suggestive, but you're going to look at how  
16 applicable they might be when you take a close look at the  
17 size of the change, right? Is that what you're saying?

18 MS. NEUMAN: [Nods head.]

19 DR. CHRISTIANSON: Okay.

20 DR. CROSSON: Okay. So we're now going to move  
21 into -- I think movement towards a direction of perhaps  
22 sidling up to the notion of maybe we get to some

1 recommendations here.

2           As I looked at this one, again, we have multiple  
3 options on the table, all in the next 40 minutes: three  
4 potential options, including doing nothing with ASP; two  
5 for the supplier dispensing issue; and potentially four for  
6 340B, including doing nothing. So that's nine.

7           Similar to this morning's discussion, but not  
8 similar, we have multiple issues on the table, but they're  
9 not necessarily interrelated in the way that the ones were  
10 this morning. So what I thought we would do, here again at  
11 some risk, is -- and, Kathy, I'm setting you up here, so be  
12 careful -- is to put up a straw-person for each one of  
13 these three areas, and the purpose being here to argue for  
14 or against the proposition. And the notion here is to try  
15 to streamline the discussion, which Kathy is going to lead.  
16 So there should be a slide appearing any minute, which I  
17 don't have a copy of.

18           So the argument here is that the starting place  
19 for discussion would be the smaller reduction in ASP, and  
20 the idea here is that, as has been raised here already, I  
21 think we have some concerns about moving too aggressively  
22 here, and the impact, as Kate described, on some of the

1 smaller practices, who are on one end of the distribution  
2 curve for actual purchase price. That's the logic there.

3           The logic for doing anything is that, in fact, we  
4 have -- we believe we have a problem identified, and  
5 whether it's theoretical or actual or a combination of  
6 both, I think is fair.

7           Although we haven't discussed it much, I think  
8 there's an argument to be made, given the size of the  
9 differential here, for reducing the Part B dispensing and  
10 supplying fees for supplier-furnished drugs down to the  
11 level paid in the commercial environment, if that's the  
12 proper way of describing it.

13           And then with respect to 340B, to take the middle  
14 course, if you will, and that is to reduce the payment rate  
15 by 10 percent. This is both to recoup excess payments for  
16 the Medicare program for the Treasury and also return money  
17 to the beneficiaries, and so that, we could use as a  
18 starting point for the discussion. And Kathy is going to  
19 kick it off.

20           MS. BUTO: So I think these three policy options  
21 would move us -- we talked about this issue enough that we  
22 seem to have at least some agreement, pending further data

1 analysis, the impact of some of these options, that the  
2 current ASP+6 percent does sort of drive toward the  
3 opposite of least costly alternative, which is sort of the  
4 most costly alternative.

5           And, in an effort to try to have a broad impact  
6 on that potential -- and I think Jon's point is important -  
7 - do we really know anything about what the movement would  
8 be if we were to move to something like this?

9           I think the 104 percent of ASP plus the flat fee  
10 is at least the beginning of a move to try to take some of  
11 that additional incentive out of there.

12           The second one, reducing the Part B dispensing  
13 and supplying fees, I think the paper was very compelling  
14 on that point, and I would agree with that. I would  
15 actually -- I liked your point -- and in the paper, we  
16 didn't talk about it -- about potentially moving those  
17 drugs to Part D, since they've essentially gotten through  
18 the pharmacy. I don't know whether we think that would  
19 actually increase costs, so I think that would be an  
20 important thing to know or at least get a sense from you as  
21 to whether that's a good idea or whether we ought to just  
22 leave well enough alone.

1           I personally would like to see them bundled, but  
2 it sounds like the statute is where that lies, and it's  
3 very difficult to change the statute when it comes to  
4 something like this. I'm not sure you could ever get it  
5 done.

6           The third one, which is kind of the middle  
7 option, I guess, between taking all of the discount back to  
8 the federal government and for beneficiaries, I think it's  
9 reasonable because, at least in our earlier discussions,  
10 we've talked about recognizing the fact that Congress very  
11 deliberately wanted to subsidize the 340B hospitals with  
12 some -- you know, they recognized what they were doing,  
13 shall we say. And it could be that this is step one.

14           I think the other notion about the Affordable  
15 Care Act was that it would eventually begin to provide  
16 revenues from the formerly uninsured to hospitals, and that  
17 would be another way to compensate for what was formally  
18 disproportionate share. I don't think that's happening as  
19 quickly as everybody had hoped, but it could be that this  
20 is one step in that direction.

21           So bottom line is I'm comfortable with the  
22 recommendations or the options that the Chairman has laid

1 out.

2 I would like to see just more of what we've  
3 talked about already, about some of the impacts and  
4 potential impacts, before we really nail this down because  
5 I think we want to know what both we're recommending and  
6 what some of the unintended consequences might be.

7 DR. CROSSON: Kathy, I want to just make two  
8 quick points.

9 Jon, did you just raise your --

10 DR. CHRISTIANSON: I just have a question for  
11 Kathy.

12 DR. CROSSON: Go ahead on that.

13 DR. CHRISTIANSON: So Congress knew what they  
14 were doing your comment about that, so they knew what they  
15 were doing to the extent that they wanted to make -- they  
16 wanted to provide some financial relief for these hospitals  
17 by allowing them to buy drugs at a lower cost for Medicaid  
18 beneficiaries, or did they know that they -- did they know  
19 what they were doing in the sense of designing a program  
20 where Medicare would indirectly subsidize the hospitals?  
21 How do you see that?

22 MS. BUTO: Yeah. Actually, I didn't see it that

1 way.

2 DR. CHRISTIANSON: Okay.

3 MS. BUTO: I thought we should take the whole  
4 subsidy back or really not -- just as we don't subsidize  
5 Medicaid with Medicare rates, why are we subsidizing 340B  
6 hospitals? But I thought the previous longer discussion we  
7 had as a Commission was some general agreement around the  
8 table that Congress did seem to know that that was part of  
9 this, that by allowing -- not just expanding the number of  
10 hospitals, but allowing Medicare to pay at full payment,  
11 while hospitals were getting, in a sense, a much better  
12 deal, the Medicaid -- basically what amount to the Medicaid  
13 rates, that they knew there was going to be an implicit  
14 subsidy there for those hospitals.

15 DR. CHRISTIANSON: Okay. That's interesting. I  
16 wasn't sure that that was --

17 MS. BUTO: I thought that was in our previous  
18 discussion, but, Mark, you might --

19 DR. MILLER: There were differences of opinion.  
20 Some people interpreted it as this is what Congress  
21 intended. Some people said it's not clear.

22 And the other thing I just want to remind you

1 guys, and it doesn't -- I don't think I need to say it, but  
2 I'm going to say it, anyway. We frequently recommend  
3 things that we think the Congress should do, even if they  
4 have made laws going in different directions. So it's a  
5 useful marker to know what they were saying, but whether  
6 you want to stand by that marker, you're here for other  
7 purposes.

8 MS. BUTO: Right. And I assume we'll come back  
9 to discussing these when we're ready to finalize our  
10 recommendations, but I'd be much more inclined to say, if  
11 this were just me, let's start here, assess what the impact  
12 is, and potentially move to the full 22.5 percent or  
13 whatever it is. Yeah.

14 DR. CHRISTIANSON: I agree.

15 DR. CROSSON: I just want to make two points  
16 here. Number one, I've made it already, but just to be  
17 clear, unlike this morning's discussion, this is not a  
18 package. These are discrete items. We are just putting  
19 them up for discussion purposes.

20 The second one is just to remember that on the  
21 340B issue that, depending on where we go, if there is an  
22 impact on hospital revenues as a consequence of this for

1 certain hospitals, as there will be, this is not the only  
2 tool that this Commission has to influence payments to  
3 hospitals, including certain types of hospitals.

4           So you want to start down at this end? David.

5           DR. NERENZ: I'm comfortable with the first two,  
6 and I have a couple concerns about the last one, although  
7 with the first one, I'll just say there's a little  
8 aesthetic issue that we have a, currently, simple thing  
9 that has one component. Now we add another one. We're  
10 kind of in this hybrid. I just would want to know that the  
11 problem is big enough to be worth moving in that direction,  
12 but the direction is fine.

13           In terms of the 340B, just three concerns I think  
14 are related, and they play off including something, Jay,  
15 you said and Kathy said. I did have the sense in our March  
16 discussion -- and I think it was eloquently captured by  
17 Glenn in his marks that closed that particular section --  
18 that if we choose to go down this path, we do risk -- I  
19 think his phrase was "frustrating the intent of Congress" -  
20 - in establishing the program, and it does rest on this  
21 assumption that Congress knew and has continued to know  
22 during this whole time period that Medicare is not exempted

1 from the subsidy, let's call it.

2           And as, Mark, you said, we can choose to  
3 recommend something different, but at least I have a  
4 caution about that, just because they wanted in a context  
5 outside of Medicare to create this mechanism for safety net  
6 hospitals. So I would be concerned about that.

7           I also, just in terms of the impact, recognized  
8 that the amounts we're talking about -- and I know we're  
9 estimating it sort of like 1.2 percent of overall Medicare  
10 revenue on average -- that's in the range of what we talk  
11 about in December and January for the annual payment  
12 updates, and when we do that, we apply this filter of  
13 payment adequacy. And we're not applying that here. So I  
14 think we're talking about pretty big movements of lots of  
15 dollars in a domain where I think the last time we looked  
16 at it, the Medicare margins and the overall margins were  
17 negative, so just a little caution about that.

18           The third thing is we ought to anticipate what  
19 the responses would be if we did this. We don't know for  
20 sure. Some of the ones I think about would be negative or  
21 harmful in the sense that if you're talking about hospitals  
22 that, by and large, do not have positive margins, a cut of

1 2-, 3-, \$4 million, whatever it would be at the individual  
2 hospital level, is going to be noticed, and it's going to  
3 be something. And we don't know what that something is,  
4 but at least we ought to be concerned. Does that mean  
5 shrinkage of charity care? Does that mean a shrinkage of  
6 community outreach and community benefit activities?  
7 Maybe. But it would be worth at least trying to find out  
8 what that might be.

9           So, all in all, I'm just concerned about this as  
10 a way to go, and I appreciate, Jay, your comment that there  
11 are other moving parts that we will discuss in the next  
12 couple of months about payment to hospitals, and it may be  
13 that an action like this could be compensated by a  
14 different upward action of some other kind, and the net  
15 result of that might be better.

16           But I end up being a little worried that if  
17 somehow our goal was to find \$800,000 of Medicare savings,  
18 safety net hospitals wouldn't necessarily be the first  
19 place I'd go looking for that.

20           DR. CROSSON: Coming up this way. Craig.

21           DR. SAMITT: So a little different than David's  
22 perspective, I'm actually comfortable with the second and

1 the third, and I have some questions about the first,  
2 mostly because I don't quite understand what this change  
3 accomplishes.

4           So if the net cost to the program is ultimately  
5 going to be about the same -- we're essentially just  
6 replacing the 2 percent ASP with a fixed fee -- it doesn't  
7 save the program anything.

8           And I also question whether even a reduction from  
9 6 percent to 4 percent would change prescribing patterns in  
10 terms of use of higher priced -- lower price versus higher  
11 price.

12           So it feels as if we're making a modest change  
13 that creates complexity without any advantage, and I guess  
14 I'd alternative say make no change at all or go further and  
15 go deeper, bring ASP down quite a bit more substantively  
16 and increase the fixed amount in a manner that really may  
17 change prescribing patterns. So that's the piece of this  
18 that I just don't fully understand why we would make that  
19 one change the way we're proposing it.

20           DR. CROSSON: Rita?

21           DR. REDBERG: I'll agree with what Craig said  
22 about preferring the second and the third and not the

1 first, and I just think I would like to go back and  
2 readdress bundling of payment.

3 We had talked in the past about -- at least for  
4 oncology drugs --

5 DR. CROSSON: Oncology drugs.

6 DR. REDBERG: -- which is a lot of the Part B  
7 expenditures, bundling, which to me makes a lot more sense,  
8 because I just -- I'm afraid we're again playing around  
9 with pieces that aren't really going to accomplish the  
10 purpose of ensuring value for what we're paying for. I  
11 mean, are we really accomplishing our goals with the 340B  
12 drug discount?

13 And the whole ASP seems to me kind of the same  
14 problems as a fee-for-service, when we talk on the  
15 physician payment side. We're just rewarding volume  
16 without looking at what we're paying for or value, and  
17 that's the way the bundled payment for actually more than  
18 oncology would make more sense to me.

19 DR. CROSSON: And that's a reasonable position.

20 I don't know that I was on the Commission for the  
21 whole discussion of bundling, but my sense was that it was  
22 a good discussion. But we were unable to come to a

1 conclusion. Is that fair?

2 DR. MILLER: Yeah. I was talking to him about  
3 this last night, and I just want to make a distinction. We  
4 had long conversations about bundling on post-acute-care-  
5 related hospital, that type of thing, and those had a hard  
6 time finding a landing point.

7 What we did agree in this instance is Nancy --  
8 and I'm looking at her -- okay. And I got the nod that I  
9 needed. Nancy has taken the bundling piece for oncology  
10 and is looking at that, and we're staging that for a later  
11 meeting when we can bring it to the table, so that piece of  
12 bundling is not off the table.

13 Now, how determined it is and whether you guys  
14 settle on it and all the rest of it, that's a different  
15 question.

16 DR. CROSSON: So we'll keep it -- so this is in  
17 play. It's in play.

18 DR. MILLER: That's the --

19 DR. CROSSON: Yeah.

20 Kathy?

21 MS. BUTO: Just to follow up on Rita's point, I  
22 agree with Rita that bundling would be a more preferable

1 way to go, if we could figure out how to do it. I think  
2 that's the challenge here.

3           So the question I have is as little bit of  
4 timing. We're thinking that we'll move ahead with these  
5 issues that we've already talked about probably before we  
6 fully develop the bundling options. Am I getting that  
7 right, do you think? Because it's going to take us a while  
8 to figure out how to come up with recommendations in that  
9 area.

10           DR. CROSSON: What would be the timing of --

11           DR. MILLER: I think I'm inclined to agree with  
12 her in the following way. If you guys were to come to an  
13 understanding here and you look at these three things and  
14 you say you want to do X or Y or a little bit of X and a  
15 little less of Y, whatever, we would probably come back  
16 with draft recommendations, Jim, in March, and then you  
17 would vote in April, and we'd write it up in June.

18           Probably, what will be happening about that time  
19 is Nancy will be hitting the scene in either March or April  
20 with "Here's how you could think about bundling," and I  
21 guarantee you, it will be a complicated conversation. The  
22 notion of coming to a hard conclusion at that point would

1 surprise me.

2 DR. CROSSON: Jon.

3 DR. CHRISTIANSON: Just a quick comment. David,  
4 I think all of your comments are right on, so I'd agree  
5 with them all.

6 I think there's also the point of view that in  
7 the best of all possible worlds, we would have a general --  
8 "we" meaning society, Congress -- would have a general  
9 discussion about how much we want to subsidize hospitals to  
10 keep them open and deliver high-quality care, and then we  
11 would come up with -- and then that would be a subsidy out  
12 of general tax revenue.

13 I think by doing it this way, we're  
14 disproportionately putting the burden of that subsidy on  
15 Medicare beneficiaries, and I'm not all that happy with  
16 that.

17 DR. NERENZ: And I agree with that. I see that  
18 also.

19 DR. CROSSON: Now, seven and a half years I've  
20 been on MedPAC, we've come at this issue, this generic  
21 issue, multiple times, which is there's some perturbation  
22 in the payment system, which was perhaps unintended or

1 intended, or intended at one level and now it's at another  
2 level. And it represents some sort of cross-subsidy, and  
3 the general argument is, isn't it better to remove that and  
4 deal with the issue directly? And this falls into that  
5 category. Sometimes, honestly, you can do that, and  
6 sometimes you can't.

7 Alice.

8 DR. COOMBS: While I support each one of these  
9 bullets, I am ambivalent because I don't know exactly what  
10 revenues are done -- what revenues are invested in, in  
11 terms of capital, versus patient outreach.

12 My strongest feeling is that I think the  
13 beneficiary should benefit from whatever savings, whatever  
14 is accrued here, so that's my strongest opinion there.

15 And I don't think we really know behind the  
16 scenes what is happening with the revenue that's generated  
17 from the 340B. That causes me pause, because how could you  
18 be very aggressive with the 22 percent or even the 20  
19 percent? I think it's right, but I'm not sure.

20 DR. CROSSON: Kate.

21 DR. BAICKER: So I have to think that moving away  
22 from differentially subsidizing higher-cost drugs is the

1 right direction to be moving. I take Dave's point that if  
2 you're going to incur the complication of going to a flat  
3 fee plus an add-on, do you want to do it for just a scooch?  
4 Given the hazards of moving in that direction and some of  
5 the mixed feelings, I can understand the argument for doing  
6 a little and seeing how it goes before going all the way.  
7 So I can see arguments on both sides, but I have to think  
8 that reducing the marginal incentive to opt for the higher-  
9 cost drug has to be a move in the right direction.

10 As for the 340B, all the evidence we have about  
11 the scope of the problem that Jon brought up and evidence  
12 that this is being used in a way that was not necessarily  
13 originally intended and is not particularly well targeted  
14 makes it clear to me that something needs to be done.

15 Whether this is the best option, it's hard to  
16 know for sure. There are some other things we've talked  
17 about in the past that would have more of a flavor of  
18 targeting the patients rather than the entity delivering  
19 them. It strikes me that those are likely to be much more  
20 complicated, and then maybe this is just the most tractable  
21 way to move in that direction. But, in some sense, part of  
22 the problem is all of the patients who are going through

1 this now very broadly defined class of entities and that  
2 the targeting is just not so good, and while, of course, we  
3 want to ensure the presence of a robust safety net, this  
4 seems like -- the way we're doing it now, it seems like an  
5 awfully distortionary way to subsidize a particular group  
6 of patients and the providers who serve them.

7           So I feel like this can't be -- the way we're  
8 doing it right now can't be the right answer, but I  
9 understand that any of the solutions that are on the table  
10 have pluses and minuses.

11           DR. CROSSON: Thank you. Kate, I just put  
12 "distortionary" into my personal lexicon. I'm not sure  
13 I've ever used it before, but I like it.

14           [Laughter.]

15           DR. BAICKER: I recommend using it every day.

16           DR. NERENZ: Kate, I would have thought "scooch"  
17 is the more appropriate thing.

18           [Laughter.]

19           DR. NERENZ: But that's a technical term I would  
20 have used if I had known it.

21           DR. CROSSON: Jack.

22           DR. HOADLEY: So I'll start with the 340B. I

1 mean, I think I share a lot of what Kate just said. This  
2 doesn't feel like the right way to subsidize the safety  
3 net.

4           On the other hand, if we make this change, we are  
5 taking dollars out of those safety net institutions, and so  
6 there's at least in the short term, we're potentially doing  
7 harm there. So I think trying to think about how to do it,  
8 if that means we come back on the -- if we can bundle this  
9 with something we do on the update discussions, that's  
10 appropriately targeted. But I don't know. We typically  
11 have said we're making update recommendation in general,  
12 and here we're talking about a much more narrow set of  
13 hospitals.

14           And I wonder, for example, talking about, say,  
15 DSH more broadly as part of a hospital discussion is a much  
16 bigger topic than just what we tend to do in the update.  
17 So I guess I worry about -- even though it sort of says  
18 Medicare shouldn't be the engine that generates money for  
19 the safety net, we are where we are, and if so we make a  
20 subtraction, do we have an idea of where to go to put the  
21 other money back in? And if in the ideal world, that's not  
22 somewhere through Medicare, then it's kind of not our

1 jurisdiction. So that's what gives me pause in sort of  
2 going for this.

3           Certainly, if we go for it, doing it at the 10  
4 percent level rather than the 22 -- or whatever the number  
5 is -- level makes sense, although I can probably find it  
6 interesting to think about just the copay side. That was  
7 something I hadn't thought about before this discussion.  
8 That concerns me that we're sort of doing that without sort  
9 of thinking through what the impact would be on those  
10 hospitals.

11           Going back up the list, on the supplier thing, I  
12 think I'm fine with the proposal here. I mean, like Kathy  
13 initially said, rethinking, switching this over to D or  
14 going with some kind of -- any of these changes are going  
15 to require -- I think even the supplier fee, I think  
16 requires statutory change, although I don't know that. I  
17 don't know if that was --

18           MS. NEUMAN: Supplier, the rate is set by CMS, so  
19 that wouldn't need to be -- if you wanted it reduced,  
20 that's under CMS's authority.

21           DR. HOADLEY: That one is regulated, okay. So  
22 that one could be done regulatorily.

1 DR. CROSSON: Oh, no. Now I have another word.

2 [Laughter.]

3 DR. CHRISTIANSON: Let's scratch that word. By  
4 regulation. To go to something like a bundle that Kathy  
5 was talking about or to go to Part D, either of those would  
6 require a statutory change, so they're sort of on the same  
7 page in terms of a bigger lift.

8 And while I think there's a lot of complexities  
9 on doing other parts of the Part B drugs through Part D,  
10 for reasons that are talked about in the paper, I think at  
11 least in this small set, it's at least a more reasonable  
12 possibility. But it is a bigger lift in general, and so I  
13 think this is maybe an okay way to go.

14 On the ASP, I guess when I've talked about these  
15 issues, I often think of this as a potential savings  
16 mechanism, and then that becomes part of the rationale. So  
17 I guess I'm wondering why we'd necessarily frame this as a  
18 budget-neutral policy as opposed to a savings.

19 Now, as an asterisk on that, we've sort of got  
20 the sequester in there cutting some of it, so we don't  
21 really have 106. We have something less than that, but we  
22 tend to put the sequester aside and say that's a separate

1 policy mechanism.

2           But it seems like maybe it's worth thinking about  
3 if we're going to do something like this, rather than do it  
4 on a budget-neutral basis, is get some savings out of it  
5 while making a small contribution towards changing the  
6 relative financial incentives.

7           I originally thought more in terms of the flat or  
8 more like an option 1. I hear some of the arguments for  
9 option 2, both in the sense of not disrupting as much and  
10 sort of the interesting impact on the low-cost drugs, and  
11 the latter part also makes me wonder, although this adds  
12 complexity. So, for that reason, I wouldn't like it. If  
13 you want to end up with some kind of hybrid where you treat  
14 the low-cost drugs differently than the high-cost drugs,  
15 but that starts to sound so complex, it scares me away  
16 pretty quickly.

17           I mean, this is the challenge we're trying to --  
18 most on financial incentives for expensive drugs, we're not  
19 trying to -- we don't want to create something strange on  
20 the low end. But I do think at least if we're going to do  
21 something here, let's get some savings out of this while we  
22 go.

1 DR. BAICKER: Just a quick clarification. It's  
2 budget neutral only if no one changes behavior.

3 DR. HOADLEY: True. Right, right.

4 DR. CROSSON: Right.

5 DR. BAICKER: Whereas, if --

6 DR. MILLER: Right. But I'd take his comment as,  
7 if you do it, be direct about extracting.

8 DR. HOADLEY: And you may get both -- like if you  
9 want to 102 plus 980 or just to pick something, you would  
10 get the 2 percent savings sort of guaranteed -- well, never  
11 guaranteed because there's behavioral effects everywhere,  
12 but you'd potentially get the 2 plus whatever behavioral  
13 impact you have.

14 DR. CROSSON: Just on that note, I guess we don't  
15 know. We have no way of knowing the -- if we moved from  
16 106 to 102 without the full flat fee or part of the flat  
17 fee, we don't really know what the distribution curve of  
18 actual acquisition costs are by practices; is that right?

19 MS. NEUMAN: Exactly.

20 DR. CROSSON: Is there any way to assess that  
21 between now and March?

22 MS. NEUMAN: Acquisition cost data is not -- is

1 not really available.

2 DR. CROSSON: Right. So I guess just -- and this  
3 is part of where we ended up, and it applies to your  
4 suggestion as well, Jack. I am concerned about a policy  
5 that we put in place and it ends up with 30 or 40 percent  
6 of practices, essentially put in the position of having to  
7 buy and administer the cost at a loss -- the drug at a  
8 loss. And I think it would be helpful to me to try to  
9 understand the implications of these choices with respect  
10 to that.

11 MS. BUTO: Jay, can I just add one other?

12 DR. CROSSON: Yeah.

13 MS. BUTO: Jack reminded me of something, and I  
14 should remember this, but I don't. Prompt-paid discounts  
15 are not counted in calculating ASP. Is that something we  
16 should think about or look at? If you include it, is it  
17 significant? Does it lower ASP considerably? Is there any  
18 reason why manufacturers wouldn't still try to get their  
19 drugs quickly or wholesalers wouldn't want the drugs  
20 quickly from manufacturers? I'm just trying to understand  
21 that because that may be an area -- and I may be picking on  
22 the wrong thing -- where they've explicitly excluded it,

1 but it might actually yield something.

2 MS. NEUMAN: So just to clarify and make sure I'm  
3 following -- so the prompt-pay discount right now is the  
4 discount the manufacturer pays to the wholesaler when the  
5 wholesaler pays quickly, and anecdotally, we hear that  
6 wholesalers generally do not share those discounts with the  
7 final purchasers.

8 So, when the manufacturer calculates their ASP,  
9 they have to take into account that prompt-pay discount.  
10 So let's say it was 1 percent. That prompt-pay discount  
11 will lower ASP by 1 percent, but that 1 percent discount,  
12 anecdotally, is generally not passed on to the providers.

13 So is your thought that we would want to take --  
14 to not have them subtract it from ASP or --

15 DR. MILLER: I took her thought as if Jack was  
16 looking to lower ASP, does including the prompt-pay  
17 discount lower ASP, and I think you're saying it already  
18 has.

19 Kathy, I'm --

20 MS. NEUMAN: It already lowers it, yes.

21 DR. MILLER: Yeah. And I'm interpreting, Kathy.  
22 If that's not what you meant, then --

1 MS. BUTO: That is what I meant. I thought  
2 prompt-pay discounts were not counted in calculating ASP,  
3 but they are is what you're saying.

4 MS. NEUMAN: Yes. So it lowers ASP. Prompt-pay  
5 lowers ASP, but it does not lower AMP. This is a different  
6 policy.

7 DR. CROSSON: So, if I understand it, then the  
8 net effect of that is to further distance the -- for some  
9 practices, the actual acquisition cost from the ASP.

10 DR. MILLER: Right.

11 DR. CROSSON: is that right?

12 MS. BUTO: Yes. For some, yeah.

13 DR. CROSSON: By a percentage point or something.

14 MS. NEUMAN: We only have anecdotal information.  
15 People often say 1 to 2 percent, but there's no data to  
16 validate that.

17 MS. BUTO: And you also pointed out the  
18 wholesaler add-on does the same thing. It's an add-on, an  
19 additional amount that the purchaser may be paying that  
20 again is not reflected in the ASP.

21 MS. NEUMAN: And we think that --

22 MS. BUTO: So that goes the other way.

1 MS. NEUMAN: -- that affects low-price drugs, not  
2 as much the really expensive ones.

3 DR. CROSSON: Jack, on this?

4 DR. HOADLEY: Yeah. I was wondering. You  
5 probably don't know this either, but is there any sense  
6 whether the spread of acquisition prices is sort of  
7 proportional to the price of the drug? In other words, is  
8 it plus or minus percent, or is it more plus or minus flat  
9 amounts? And, obviously, we don't have data, so we can't  
10 answer it empirically, but do you get any sense that the  
11 acquisition price is likely to be 4 percentage points up on  
12 a thousand-dollar drug and 4 percentage points up on a \$20  
13 drug?

14 MS. NEUMAN: I don't think I can answer that  
15 right now. Let us see if we can --

16 DR. HOADLEY: But that might go to the same --

17 DR. MILLER: But, yeah, I do want to comment on  
18 that because this is the other thing I thought is important  
19 to say.

20 You know, the ASP is ultimately the product of a  
21 competitive set of prices, so the manufacturer is offering  
22 and practices are purchasing. If you were to do something

1 that Jack said, "Okay, I am going to do ASP+2 or ASP+3 or  
2 whatever you're saying," and people are saying, "What's the  
3 distribution of the data?" -- and the distribution at any  
4 point in time could be what it is. But if the manufacturer  
5 wants to keep selling, they have to decide what they're  
6 going to do. And around that average, in this instance,  
7 it's not so much moving the average, necessarily. It's  
8 moving the distribution around the average, meaning I'm  
9 going to tighten it up, plus or minus, in order to make  
10 sure the physician can purchase.

11 This is the thing I was leading up to, and I'm  
12 very unsure here. I thought a few years back, way early on  
13 when this started happening, we looked at this, and we  
14 thought there was some compression in the distribution.

15 MS. NEUMAN: Right. There's some evidence that  
16 there was some compression around the time that ASP went  
17 into place --

18 DR. MILLER: Yeah. And I'm not --

19 MS. NEUMAN: -- in response.

20 DR. MILLER: I don't mean to say that as, like,  
21 "Okay, no problem," but remember you have two moving parts  
22 here. If Medicare changes its percentage, the manufacturer

1 has to decide to respond or somehow take the fact that some  
2 practices are not going to be able to purchase their drug.

3

4 MS. BUTO: But, Mark, just to follow on that  
5 point, I think there was an old CBO study on best price,  
6 and when best price came in, there was -- I think maybe CBO  
7 expected, but some did not expect to see the compression on  
8 the commercial. So, in other words, drug prices flattened  
9 out everywhere because all those discounts and rebates and  
10 so on were being counted.

11 So one of the things, even though we're not --  
12 it's not in our authority, that we should just kind of be  
13 aware of is whether what we do might actually have a  
14 negative spillover effect on drug pricing. So there isn't  
15 much differentiation, even for those who can't afford to  
16 purchase, so just something to think about.

17 I think CBO did a study, probably 10 years ago  
18 now.

19 DR. CROSSON: Okay. Let's move ahead and --  
20 Mary.

21 DR. NAYLOR: I'll try to be brief.

22 Related to the first bullet, I would concur with

1 the sentiment that we shouldn't be doing anything in the  
2 form of a scooch but more to a savings.

3 I absolutely support the second, reducing Part B  
4 dispensing. It's applying fees.

5 On the third, I really am troubled by this -- I  
6 would move more toward option 1, over time, with a  
7 transition plan so that we can begin to think about the  
8 kind of other tools that are very transparent and targeted  
9 toward addressing issues related to safety net hospitals.  
10 But if we move with this proposal here, I would really like  
11 to see how the reduction in payment, even in the short  
12 term, if it is closer to 10 percent, that we could restore  
13 the 22.7 percent to the beneficiaries, as directly as part  
14 of that plan. It doesn't seem at all to me that we should  
15 be not responding to what is a discrepancy in terms of our  
16 beneficiaries, the ones we're serving.

17 DR. CROSSON: Cori.

18 MS. UCCELLO: I'm afraid I'm less clear about  
19 what I think now than I was --

20 [Laughter.]

21 DR. CROSSON: Well, next time, we'll have you go  
22 first.

1 DR. MILLER: Thank you, Cori.

2 MS. UCCELLO: I think this is a really rich  
3 discussion, and it's really made me think, so I think  
4 that's a good thing.

5 In terms of the first, this seems reasonable. I  
6 mean, I do -- I kind of have to comments on this. One is  
7 that, kind of what Kate said, well, this is designed to be  
8 budget neutral, assuming no changes in utilization, but  
9 assuming changes in utilization, we would hope that there  
10 would be some savings here.

11 But, to the extent that we're not actually even  
12 sure that there would be, this causes me some concern. I  
13 mean, it seems in theory that, yes, we should get savings,  
14 but I don't know. So trying to do something that's more  
15 explicitly, getting savings seems better.

16 Also, this is more a psychology thing. I think  
17 I'm comfortable with this 4 percent and the 980, but it's  
18 partly how you frame the choices. This is the middle-of-  
19 the-road choice, in a sense, between other choices. If we  
20 frame the range differently, would this still be where I  
21 end up? I don't know. What if the choices were all flat  
22 fee, no percentage, the 2.5 percent is the middle and then

1 the 4 percent as the other end? Well, would we then kind  
2 of migrate to 2, 2.5? It's just something to think about.

3 That goes back to thinking are providers going to  
4 be able to cover their expenses with this, is that going to  
5 be enough, and that factors into that. So maybe we still  
6 would end up at this four, but just thinking about how  
7 things are framed, it can affect kind of where you come  
8 down and where you're comfortable in when you think you're  
9 choosing the middle choice.

10 Regarding the 340B, can you put this in the  
11 transcript? [Waving hand.]

12 MS. NEUMAN: [Speaking off microphone.]

13 [Laughter.]

14 MS. UCCELLO: I'm hand-waving.

15 So I share these concerns about how do we best  
16 target extra funding to these kinds of providers, while at  
17 the same time making sure that Medicare is not cross-  
18 subsidizing things that it shouldn't.

19 So, again, this again seems like an appropriate  
20 middle-of-the-road approach. I like how both the  
21 beneficiaries and the program would benefit from this. I  
22 still think we need to kind of think through the broader

1 implications.

2 DR. CROSSON: Okay. I think we have exhausted  
3 our time. Perhaps the entire Commission -- so I'm going to  
4 sum up.

5 What? What?

6 DR. MILLER: Just before you do --

7 DR. CROSSON: Yeah.

8 DR. MILLER: -- can I just ask two other things?  
9 And, now, this is mostly for the three of you. So 340B was  
10 created when originally?

11 MR. WINTER: 1992.

12 DR. MILLER: Okay. And ASP+6 was created?

13 MS. NEUMAN: 2006.

14 DR. MILLER: And then November 5, 2015PPACA  
15 expanded things 2010.

16 So one thing about congressional intent, the  
17 original program was put in place before ASP+6 was in  
18 place, but then you might come back and say, "Yes, but in  
19 2010, they expanded it, fully cognizant." But, in terms of  
20 intent, things happen in different times in different  
21 environments, and so I just wanted to kind of remind  
22 everybody how this -- the dominoes actually fell here.

1           And then I just want to also -- so the discounts  
2 that occur under 340B are for all -- I mean, implicitly,  
3 all payers, right?

4           MR. WINTER: Yes, they do. But Medicaid is a bit  
5 complicated because hospitals can choose whether or not to  
6 --

7           DR. MILLER: I'm sorry. I shouldn't have said  
8 all payers. I should think --

9           MR. WINTER: But commercial and Medicare, yes.

10          DR. MILLER: Commercial and Medicare. And so  
11 keep in mind that the revenue you're seeing here is not all  
12 of the revenue, but your immediate response, Jack, should  
13 be yes. But these are the hospitals that are likely to  
14 have less in terms of private pay, and that's a true  
15 statement too. But keep in mind, this is not all of the  
16 revenue that the hospital is pulling from 340B. There's  
17 also a private payer.

18           I apologize.

19          DR. CROSSON: So here's what I think I heard.  
20 With respect to the first portion of this, the ASP+6, I  
21 heard a lot of different opinions, but there were a lot of  
22 different reasons for hesitancy.

1           I heard a couple of "Let's go get 'em. Let's go  
2 get it," but I didn't hear a lot of that.

3           There were some suggestions about other ways to  
4 look at it, and so my suggestion on this one, because I  
5 have to predicate this, our intention is, again, to come  
6 back in March and to start looking hard at some  
7 recommendations.

8           In a category that's easy for me to say, I think  
9 we need to perhaps come back with some broader thinking on  
10 this piece because I don't see right now a consensus to do  
11 this, at least in the way we've suggested. We might be  
12 able to get there, but I don't know.

13           With respect to the supplier and dispensing, I  
14 didn't hear any arguments against it, so that one is in the  
15 bag, I think. Of course, when we get to the details, then  
16 it will be harder on the face of it.

17           With respect to 340B, I think what I heard is a  
18 general sense that we should be moving in this direction in  
19 some way, and my hope is this, that by the time we get to  
20 March, we will have had a broader -- perhaps not  
21 comprehensive, Jack -- but a broader discussion about  
22 payment to hospitals, including potentially payments to

1 different types of hospitals. And we may have a different  
2 sense of things that provide some comfort to moving in the  
3 direction that we've recommended by March.

4 And so I'm not going to suggest we overhaul that  
5 part at the moment, but that we consider revisiting this  
6 again in March when we've had a more comprehensive  
7 discussion about hospital and made recommendations, by the  
8 way, about hospital updates.

9 How does that sit with folks? Okay. All right.

10 Good. Well, thank you, Kim, Ariel, Dan. We will  
11 move on to the next topic.

12 [Pause.]

13 DR. CROSSON: I'm assuming the line at the  
14 bathroom is rather long, and we need to get going here.

15 [Laughter.]

16 DR. CROSSON: Okay, so we're going to move on to  
17 the next presentation. This is, again, a continuation of  
18 work that the Commission has been doing for many years on  
19 the issue of support, including financial support, for  
20 primary care. The general concern here being that, for  
21 various reasons, and based on a lot of different evidence,  
22 the differential in payment between primary care and

1 specialty care -- in some specialties anyway -- is  
2 potentially having an adverse effect on the program and the  
3 beneficiaries.

4           We have had a policy which was enacted to provide  
5 a 10 percent add-on payment to primary care physicians.  
6 That legislation is expiring at the end of this year. So  
7 we're going to discuss renewing that, but renewing it in a  
8 different way, both in the way that the payment is  
9 constructed but also potentially the level of payment to  
10 primary care physicians.

11           So Julie and Kevin. Julie, are you going to  
12 start? Kevin is going to start. Thanks.

13           DR. HAYES: Good afternoon. The objective then  
14 of this session is to identify next steps that the  
15 Commission could take to further support primary care for  
16 Medicare beneficiaries.

17           We will begin the presentation with background on  
18 concerns about support for primary care and the  
19 Commission's recommendation on a per-beneficiary payment  
20 for primary care. To aid your discussion of next steps, we  
21 will then describe our preliminary investigation of two  
22 beneficiary-centered payment models.

1           The first model is full fee-for-service payment  
2 for all services furnished by primary care practitioners  
3 plus a monthly per-beneficiary payment.

4           The second model is one that could be called  
5 partial capitation plus. It would pay a monthly per-  
6 beneficiary payment, as in the first model, but it would  
7 also allocate a portion of the traditional fee-for-service  
8 payment to a capitated payment.

9           As you will see when Julie describes these  
10 models, complexity increases as payment moves further in  
11 the direction of payment that is beneficiary-centered.

12           The Commission, of course, has longstanding  
13 concerns about the fee schedule for physicians and other  
14 health professionals, particularly as it pertains to  
15 primary care. It undervalues primary care relative to  
16 specialty care. It creates disparities in compensation  
17 with physicians in some specialties receiving compensation  
18 more than double that of physicians in primary care  
19 specialties.

20           Here we see two examples of the disparities based  
21 on data from the Medical Group Management Association. In  
22 2012, average annual compensation for physicians in family

1 medicine was \$216,000 while the average for cardiology was  
2 \$503,000. Such disparities can give medical students and  
3 incentive to choose careers in specialty care instead of  
4 primary care. Associated imbalances in physician supply  
5 present risks over the long run for beneficiary access to  
6 care.

7           And lastly, the fee schedule is not well designed  
8 to support care coordination. Let me expand on this last  
9 point, as it is one that is relevant to beneficiary-  
10 centered payment models.

11           The fee schedule is ill-suited to support care  
12 coordination because it is oriented toward payment for  
13 discrete services. For the most part, these services have  
14 a definite beginning and end. By contrast, primary care  
15 requires ongoing activities that are often not face-to-face  
16 with the patient. Examples include supervising and  
17 managing the practice's clinical team, reconciling  
18 medication prescribed by multiple providers, and developing  
19 and continually updating the patient's care plan. Such  
20 care is believed crucial to a more coordinated and  
21 efficient health care system.

22           In response to these concerns, the Commission

1 recommended in March of this year a per-beneficiary payment  
2 for primary care. It would replace the expiring primary  
3 care incentive payment program, a program that includes a  
4 10 percent bonus on fee-for-service payments for eligible  
5 services and eligible practitioners.

6           The Commission's recommendation, while replacing  
7 the PCIP with a per-beneficiary payment, would retain the  
8 same definition of primary care services. That is, office  
9 visits, nursing facility visits, and home visits. And it  
10 would retain the same definition of primary care  
11 practitioners, physicians with a specialty designation of  
12 family medicine, general internal medicine, pediatric  
13 medicine or geriatric medicine plus nurse practitioners,  
14 clinical nurse specialists, and physician assistants.

15           Further, the per-beneficiary payment would be  
16 funded by reducing the fees for all other services.

17           The rationale for the recommendation was that  
18 additional payments for primary care should continue.  
19 However, the goal, in addition to rebalancing payments  
20 toward primary care, becomes one of moving from service  
21 based fee-for-service to beneficiary-centered payment, a  
22 form of payment more in line with care management.

1           Upon conclusion of work on this recommendation,  
2 several of you asked us to come back with more on the ways  
3 to implement a per-beneficiary payment. Toward that end,  
4 Julie will now offer some ideas by describing two payment  
5 models that would make payments for primary care more  
6 beneficiary centered.

7           DR. SOMERS: Thank you, Kevin.

8           To motivate your discussion about how to reform  
9 fee schedule payment for primary care, we present two  
10 models. The first model pays primary care providers full  
11 fee-for-service plus a monthly per-beneficiary payment for  
12 care management. The second model, called partial  
13 capitation plus, pays a monthly per-beneficiary payment as  
14 in model 1, but it also allocates a portion of the  
15 traditional fee-for-service payment to a capitated payment.

16           The goals of both models are to rebalance the fee  
17 schedule and to give primary care providers more  
18 flexibility to optimally structure their practice and  
19 choose the activities that promote efficient, high quality  
20 care.

21           For example, more flexible payment could support  
22 team-based care, telehealth services, or a pharmacist on

1 staff to assist with medication management. However, there  
2 are a number of issues with these models that would make  
3 implementation a challenge. We will highlight those issues  
4 as we proceed.

5           The two models build on the Commission's per-  
6 beneficiary payment recommendation. The Commission  
7 recommended funding the per-beneficiary payment within the  
8 fee schedule. This graph explains the approach. The white  
9 rectangle on the top represents of the fee schedule  
10 spending on primary care visits provide by primary care  
11 providers. The per-beneficiary payment would be paid to  
12 those primary care providers providing primary care visits.

13           Next, the light gray rectangle in the middle of  
14 the graph represents the 15 percent of the fee schedule  
15 spending on primary care visits provided by specialists.  
16 Their payment remains unchanged.

17           The dark gray rectangle at the bottom represents  
18 the 75 percent of fee schedule spending on all services  
19 other than primary care visits. So this would be things  
20 like procedures, imaging, and tests. The Commission  
21 recommended funding the per-beneficiary payment with a  
22 reduction in payment for these other services.

1           So as we move to the next slide, please keep in  
2 mind the sets of services in the top 10 percent and the  
3 bottom 75 percent portions of the chart.

4           The first model is a straightforward extension of  
5 the Commission's per-beneficiary payment recommendation.  
6 In that recommendation, as indicated in the first  
7 highlighted row, the per-beneficiary payment rate would be  
8 \$2.60 cents per month, an amount chosen to replace the  
9 expiring primary care bonus.

10           The Commission recommended funding that payment  
11 with a 1.4 percent reduction in payment for all services  
12 other than primary care visits. The share of fee schedule  
13 spending on primary care provided by primary care providers  
14 would increase by a small amount, from 10 percent currently  
15 to 11 percent, and the share of fee schedule spending on  
16 all other services would decrease by a small amount from 75  
17 percent currently to 74 percent.

18           Payments to primary care providers would increase  
19 by about \$3,800 on average, or about a 7 percent increase.  
20 But of course, the per-beneficiary payment rate could be  
21 increased. The increased payment rates shown in the table  
22 are multiples of \$2.60.

1           So take, for example, a per-beneficiary payment  
2 amount of \$10.40 per month. The share of fee scheduling  
3 spending on primary care provided by primary care providers  
4 would increase from 10 percent to 14 percent and payments  
5 to primary care providers would increase by more than  
6 \$15,000 on average, almost a 30 percent increase. However,  
7 it would require a 5.6 percent reduction in payment for all  
8 other services.

9           The benefits of model 1 are that it would  
10 increase payments to all primary care providers, rebalance  
11 the fee schedule by increasing spending on primary care,  
12 and add payment on a per-beneficiary basis, giving  
13 providers more flexibility to optimally structure their  
14 practice and choose the activities that promote efficient,  
15 high quality care.

16           However, model 1 is still primarily a service-  
17 centric fee-for-service model and so would incentivize the  
18 overprovision of billable services and the underprovision  
19 of non-billable services.

20           Finally, across the board payment reductions  
21 would apply to over-valued services, but they would also  
22 apply to correctly-valued, and under-valued services.

1           Now moving on to model 2, partial capitation  
2 plus. Under model 2, payment for primary care providers  
3 would have three components. Two of the components would  
4 come from splitting the traditional fee-for-service payment  
5 into a per service payment for primary care visits and a  
6 partial capitation payment per-beneficiary. The third  
7 component is an add-on per-beneficiary payment, the same as  
8 in model 1.

9           The objective of model 2 is to move a proportion  
10 of the payment for primary care visits from fee-for-service  
11 to a partially capitated payment to give providers even  
12 more flexibility compared to model 1 to optimally structure  
13 their practice.

14           The benefits of model 2 are that it would  
15 rebalance the fee schedule by increasing spending on  
16 primary care and give providers an even greater share of  
17 payment on a per-beneficiary basis, increasing provider  
18 flexibility to determine how best to provide quality care.  
19 However, like model 1, model 2 has the problem that across-  
20 the-board payment reductions would apply to over-valued  
21 services, correctly-valued services, and under-valued  
22 services alike.

1           In addition, model 2 has a special issue. It  
2 redistributes payments among primary care providers. We'll  
3 discuss this point in a moment.

4           But first, let's compare model 1 with an example  
5 of model 2 that allocates 60 percent of traditional fee-  
6 for-service to a per service payment and 40 percent to a  
7 partial capitation payment.

8           On this slide, we have the same table that we  
9 looked at before, just with two additional columns at the  
10 end. Let me draw your attention to the second of the two  
11 highlighted rows, just as before, an add-on per-beneficiary  
12 payment rate of \$10.40 per month would require a 5.6  
13 percent reduction in payment for all other services. And  
14 in both models, payment to primary care providers would  
15 increase by more than \$15,000, on average, or almost a 30  
16 percent increase.

17           The difference between the two models is  
18 highlighted in the last two columns. Model 2 almost  
19 doubles the share of payment paid on a per-beneficiary  
20 basis at 43 percent compared to 22 percent in model 1. Why  
21 the difference? It's because both model 1 and model 2 have  
22 the add-on per-beneficiary payment but model 2 also has a

1 partial capitation payment allocated from fee-for-service.

2           Now let's examine model 2's special issue of  
3 redistributing payments among primary care providers. As  
4 an illustration, consider our model 2 example that  
5 allocates 60 percent of traditional fee-for-service to a  
6 per service payment and 40 percent to a partial capitation  
7 payment. When provider A, with 200 beneficiaries, moves  
8 from traditional fee-for-service to model 2, she trades 40  
9 percent of her average fee-for-service payment multiplied  
10 by her 200 beneficiaries for 40 percent of the system-wide  
11 average fee-for-service payment multiplied by her 200  
12 beneficiaries.

13           So if her average fee-for-service payment is  
14 greater than the system-wide average, she earns less under  
15 model 2 than under traditional fee-for-service.

16           Of course, average fee-for-service payment is a  
17 function of payments per visits and visits per beneficiary.  
18 So in general, model 2 redistributes payments from  
19 providers with higher payments per visit to providers with  
20 lower payments per visit and from providers with more  
21 visits per beneficiary to providers with fewer visits per  
22 beneficiary.

1           There are at least three options to mitigate  
2 model 2's redistributive effects. First, a higher per  
3 service payment rate could be set. So for instance, 90  
4 percent of the traditional fee-for-service could be  
5 allocated to the per service payment instead of the 60  
6 percent used in our example.

7           Second, payments under model 2 could be risk-  
8 adjusted. High intensity providers may furnish more and  
9 higher level office visits than the average provider in the  
10 system because their patients are sicker. Risk adjusting  
11 payment for health status would increase payments to those  
12 providers.

13           Finally, the add-on per-beneficiary payment rate  
14 could be increased. Enough additional money could be added  
15 to primary care to ensure that all primary care providers  
16 earn more under model 2 than under traditional fee-for-  
17 service.

18           Now let's move on to consider a few design  
19 features that apply to both models. First up is  
20 beneficiary cost-sharing. For the per-beneficiary payment,  
21 the Commission recommended that beneficiaries should not  
22 pay cost-sharing. The Commission was concerned that

1 beneficiaries may question cost-sharing in the absence of a  
2 face-to-face visit.

3           Consistent with the Commission's recommendation,  
4 in these examples we have assumed no beneficiary cost-  
5 sharing on the add-on per-beneficiary payment in either  
6 model. And we've assumed that per-beneficiary cost-sharing  
7 remains the same on the fee-for-service payment even when a  
8 portion is allocated to a partial capitation payment, as it  
9 is under model 2.

10           Next up are practice requirements and performance  
11 measures. For the per-beneficiary payment, the Commission  
12 did not recommend practice requirements out concern that an  
13 amount of \$2.60 per month would be too small and also out  
14 of concern about the lack of evidence to support the  
15 effectiveness of practice requirements.

16           The Commission also did not recommend performance  
17 measures. It would be difficult to measure performance on  
18 controlling costs and improving quality for providers in  
19 practices with small Medicare patient panels since random  
20 variation in the health of patients could have strong  
21 impacts on costs and quality measures.

22           One possible solution would be to focus on

1 persistent statistical outliers. For example, CMS could  
2 identify providers whose performance is consistently in the  
3 best and worst performing decile of all providers and  
4 adjust payment up or down accordingly.

5           The last design feature to consider is  
6 beneficiary attribution. It is here that the Commission  
7 may choose to reopen its discussion. In the past, the  
8 Commission has supported prospective attribution in the  
9 context of its work on ACOs and for the per-beneficiary  
10 payment recommendation. In prospective attribution, CMS  
11 would attribute beneficiaries to primary care providers  
12 based on the plurality of primary care services received,  
13 simplifying the administrative process for CMS, providers,  
14 and beneficiaries.

15           However, as the share of payment paid on a per  
16 beneficiary basis increases, getting the attribution right  
17 may become more important. If beneficiaries switch  
18 providers, providers would be paid for beneficiaries no  
19 longer under their care. Additionally, under model 2, if a  
20 beneficiary receives primary care visits from additional  
21 providers, Medicare would pay more for visits in the  
22 aggregate.

1           As an alternative, beneficiaries could designate  
2 their primary care providers through written consent.  
3 Beneficiary designation could encourage a dialogue between  
4 the beneficiary and the provider about responsibilities for  
5 providing coordinated, patient-centered primary care and  
6 hold the provider accountable to the beneficiary. However,  
7 beneficiaries may feel pressured to sign consent forms in  
8 their provider's presence.

9           And finally, beneficiaries would need to be  
10 allowed to change their designations. But how frequently  
11 should this be allowed to occur? Frequent changes could  
12 become administratively unwieldy and could hamper the  
13 policy goal of encouraging coordinated care.

14           That concludes our presentation. For the  
15 Commission's discussion, you may want to address whether  
16 these are the right goals to balance the fee schedule by  
17 increasing spending on primary care and to increase the  
18 share of payment on a per beneficiary basis in order to  
19 increase provider flexibility.

20           You may wish to discuss your preferences for  
21 model 1 or model 2.

22           Two questions to guide those preferences are how

1 much should be added to primary care? And what share of  
2 payment should be paid on a per beneficiary basis?

3           You could discuss any of the design issues, but  
4 we highlight two here that we think require the most  
5 attention. These are model 2's issue of redistribution and  
6 model 1 and two's issue of attribution.

7           With that, we thank you and look forward to your  
8 discussion.

9           DR. CROSSON: Okay, Julie, Kevin, thanks very  
10 much.

11           We're going to move into clarifying questions in  
12 a second. I'll start with one, and it's on page 18, the  
13 issue of written consent. So I'm trying to remember  
14 exactly, but it seems to me we've been down this path  
15 before with respect to ACOs, and that's a while ago.

16           It seems to me that at the time when we were  
17 looking at options there we were talking about something  
18 that we called attestation, or acknowledgment, in other  
19 words, the acknowledgment in this case potentially by the  
20 provider or physician or other qualified health  
21 professional -- thank you -- as well as by the patient or  
22 by the beneficiary that a relationship existed, which is a

1 little different than consent.

2           So when we're saying "consent," do we mean  
3 something more than that idea? Does it, in fact, lock the  
4 patient or the beneficiary in, in some way, or is that not  
5 the intent?

6           DR. SOMERS: So that's all up for discussion of  
7 what it means. When I think of written consent, I think of  
8 the primary care provider telling the beneficiary: These  
9 are the services I can offer you. I would need your  
10 written consent to offer them and to be reimbursed for them  
11 through Medicare.

12           And in terms of -- and then it's -- and to tell  
13 the beneficiary, perhaps: You can't go see another primary  
14 care provider except for me while we are under this  
15 agreement.

16           And then it would be a question. I think you'd  
17 want the beneficiary to be able to walk, to go somewhere  
18 else, and sign a new written consent in order to hold the  
19 provider accountable. But you don't want that to happen so  
20 much, or to allow it to happen so much, that it just  
21 becomes a visit-to-visit thing there's a new designation.

22           DR. CROSSON: Right. Okay. So, yeah, Mark.

1 DR. MILLER: I'm not sure I would read too much  
2 into the choice of words. We were trying to put back on  
3 the table: Do you want some agreement, something written,  
4 between the provider and the beneficiary, and if so, what  
5 does it mean? Is it merely we acknowledge this, or is it  
6 some kind of a lock-in?

7 DR. CROSSON: Right, right. So there's some  
8 fungibility there because I think you could get some of the  
9 benefits you have here, for example, encouraging  
10 beneficiary dialogue, practitioner, sorry, practitioner  
11 dialogue, but without the negative one, which is the  
12 beneficiary feeling pressured in some way because the  
13 pressure presumably would come from some sort of loss of  
14 power, which doesn't necessarily have to exist. Matter of  
15 fact, you described the fact you don't want it to exist  
16 because the beneficiary should be able to move.

17 So simply acknowledging, or attesting, to the  
18 fact that a relationship exists... anyway.

19 DR. MILLER: I mean, I think when we had these  
20 conversations in the ACO world I think the reason that  
21 Julie is bringing that concern up is so you go to a  
22 provider, and the provider says: Look, I want to be your

1 primary care person, and I can get this payment in order  
2 for me to provide these coordinating services, but I need  
3 you to read this, sign this piece of paper, or acknowledge  
4 something here.

5           And the conversation was -- what's the structure  
6 of that conversation? Who sits there and says to the  
7 provider in that instance, well, not you?

8           And then let's say you go to another office, and  
9 the person approaches you and says: I would like to be  
10 your primary care person. I want you to sign this.

11           And so I think that was the concern that -- one  
12 of the concerns that Julie was raising, that if you don't  
13 end up -- well, I'll stop.

14           DR. CROSSON: But I think what you're saying is  
15 then that would require somebody to withdraw the first one.

16           DR. MILLER: Right.

17           DR. CROSSON: Right.

18           DR. MILLER: And then Julie's point was if that  
19 happens every 30 seconds, maybe that's a little too much  
20 drama. But you know, if that happens every few days or  
21 every month or something, then exactly who's coordinating  
22 what, and how does CMS keep up with who's actually getting

1 the per capita.

2 DR. CROSSON: Right. And what's the process for  
3 withdrawing one?

4 Anyway, okay. Thank you. That was my question.  
5 And if I violated my own standards, I stand accused.

6 Qualifying -- clarifying --

7 DR. MILLER: Distorting.

8 [Laughter]

9 DR. CHRISTIANSON: [Presiding.] So there's  
10 probably a lot. But why don't we just start with Alice?  
11 Is that okay, Jack? Can we just go around and make sure  
12 everybody --

13 DR. COOMBS: So can you go to page 20 in the  
14 handout? I just had a little difficulty just kind of  
15 transcending.

16 You put the pros and cons on Model 2. You posted  
17 that up there on the slide. But in the handout, can you  
18 tell me how would a provider deal with uncertainty with  
19 that Model 2? Is there built into the system some way to  
20 address uncertainty?

21 DR. SOMERS: So, Alice, do you mean if they have  
22 a different number of visits per beneficiary?

1 DR. COOMBS: Different number of visits per  
2 beneficiary, yeah.

3 DR. SOMERS: And different payment. I'll put the  
4 -- oh, is this still clarifying?

5 So there is this redistribution effect if you  
6 take a percentage of their fee-for-service payment that's  
7 now based on services and you put that all into a pot and  
8 you redistribute it based on beneficiaries kind of at a  
9 systemwide average. It's not really uncertainty. There  
10 just will be winners or losers --

11 DR. COOMBS: Usually losers.

12 DR. SOMERS: -- depending upon how you fall  
13 around the average.

14 But then we have ways that you could mitigate  
15 that, and one is the -- I'd really like to emphasize that  
16 the tables on page 20 in your handout --

17 DR. COOMBS: Right.

18 DR. SOMERS: -- have not yet added any money to  
19 primary care. So they don't have that add-on per-  
20 beneficiary payment of the \$10.40 per month.

21 So that would go a long way at making sure that  
22 everyone earns more under Model 2 than under traditional

1 fee-for-service.

2 DR. MILLER: Every primary care.

3 DR. SOMERS: For primary care. So these tables  
4 in your handout were just trying to show the clean effects  
5 of what happens when your visits per beneficiary are  
6 different from the average, or when your payments per visit  
7 differ from the average, before we've added on payment.

8 DR. BAICKER: Quick question. You mentioned  
9 prospective attribution and written consent. Is there a  
10 retrospective true-up that's on the table, or is that  
11 logistically not feasible or not a thing we could do to  
12 reconcile?

13 DR. MILLER: Apparently not. We hadn't been  
14 thinking about things that way, which is not to say that we  
15 couldn't, and if you want to put it on the table, you can.

16 I think we've been trying to think of what's  
17 administratively, both for the provider and bene and CMS,  
18 on the size of the transaction, the easiest to kind of work  
19 through, but we could talk about it.

20 DR. HOADLEY: So, following on Alice's question,  
21 I mean, the table in the handout in the mailout on page 20  
22 was obviously done as a hypothetical. Do you have a sense

1 of how much spread there is among providers on these two  
2 dimensions of visits per beneficiary and sort of payment  
3 per visit?

4 I mean, it makes a difference if, you know,  
5 they're very clustered around the mean versus there's a  
6 whole bunch of spread. And so, I mean, you may not have  
7 that right now, but that would be something if we're  
8 trying to think through this. How big a problem are we  
9 trying to fix?

10 DR. SOMERS: Yeah, I think there is a lot of  
11 clustering around three visits per beneficiary. And I  
12 can't quite remember on payments per visit. So I'll have  
13 to get back to you on that one.

14 DR. HOADLEY: But those would be the sort of  
15 dimensions that -- you know, if it's small, if it's well-  
16 clustered, then we don't necessarily have something we need  
17 to fix.

18 On slide 12, this is really more just Model 1  
19 versus Model 2. I think I'm understanding this correctly,  
20 that it's only the add-on that would be funded out of the  
21 70 percent on that previous graph.

22 DR. SOMERS: That's right.

1 DR. HOADLEY: And that all of the sort of -- the  
2 thing on the right-hand side of that table is funded out of  
3 the cluster of the primary care providers.

4 DR. SOMERS: Well, the right-hand side does  
5 actually include both the add-on-

6 DR. HOADLEY: Okay.

7 DR. SOMERS: -- for beneficiary payment as well  
8 as the, in this example, 40 percent of the fee-for-service  
9 payment that you're paying as a capitated amount. So it  
10 includes the total.

11 DR. HOADLEY: So my question is really the 40  
12 percent is all funded out of the primary care universe.

13 DR. SOMERS: Yeah.

14 DR. MILLER: Yes. And if you want to flip to 10  
15 for a half a second, if you think of 10 as the 3 pieces,  
16 it's only the add-on piece that's funded by taking from the  
17 other part of the fee schedule.

18 And then number 2 is from primary care, but it's  
19 just put into a per-person.

20 DR. HOADLEY: Got it.

21 DR. MILLER: So your instincts are on point.

22 DR. HOADLEY: Okay. And then my last one is I

1 think I understood on the cost-sharing that the partial  
2 capitation payment would still have cost-sharing related to  
3 it.

4 DR. SOMERS: That's right. So the same cost-  
5 sharing under traditional fee-for-service would apply.

6 DR. HOADLEY: And have you thought at all about  
7 sort of the mechanics of that because does that mean the  
8 beneficiary has to write a monthly check, or I mean, what  
9 would that translate into in the real world?

10 DR. MILLER: The way I think we were thinking  
11 about this is the beneficiary pays their normal copayment  
12 when they have a visit.

13 DR. HOADLEY: And so, collectively, across all  
14 the visits it would come out, but the beneficiary wouldn't  
15 be paying it relative to the -- okay.

16 DR. MILLER: And, in theory, even though 60 -- I  
17 mean, in this hypothetical example, 60 percent of the fee  
18 schedule rate is paid at that time; in parentheses, 40  
19 percent was paid on a per-capita basis earlier in the year,  
20 let's say.

21 The beneficiary's perception should be: It costs  
22 \$100 for this office visit. I paid 20 like I always did,

1 and I'm not paying copayment on the add-on part.

2 So that's the way I think we were envisioning  
3 things, at least as a starting point, unless you have a  
4 different idea.

5 DR. HOADLEY: No. I think that sounds better  
6 than what I was worried about, that it was complicated,  
7 although you'd have to think about things like then on  
8 their EOB, if it said, well, the doctor really only got  
9 whatever the numbers are, \$60, and they paid 20, then it's  
10 going to look like they're paying more than 20.

11 DR. MILLER: Exactly. And I said, you know,  
12 because it was real easy for me to say, the general  
13 perception should be its 100 bucks, but if they're  
14 carefully looking at their EOB they are going to notice  
15 that, hey, it was 60 bucks; what's up with that?

16 DR. HOADLEY: What's up, yeah. So just details,  
17 at some point, we can think about.

18 DR. CROSSON: [Presiding.] Clarifying questions?  
19 Mary. Which way are we going? Sorry. Yeah, Mary.

20 DR. NAYLOR: [Off microphone.]

21 DR. CROSSON: Which way are we going? Sorry.

22 DR. CHRISTIANSON: We're going to the left. So,

1 Mary.

2 DR. CROSSON: Yeah, Mary.

3 DR. NAYLOR: So I just want to clarify that when  
4 you're talking about the additional 10.60 per beneficiary,  
5 15,000 plus per year, that you know, this notion in Model  
6 2, the redistribution, everybody's boat has risen here. Is  
7 that right?

8 Can you simulate what impact that would have --  
9 the redistribution? I think it's building a little bit on  
10 this, with existing information about numbers of visits and  
11 so on, although all that, I suspect, would change. But can  
12 you simulate what the impact would be across a typical  
13 practice in redistributing?

14 DR. SOMERS: Yes, we can give a very rough idea  
15 of what that would be and maybe what the add-on would need  
16 to be to kind of make everyone whole, or make everyone earn  
17 more.

18 DR. NAYLOR: I'm just saying that there's this  
19 notion that there are winners and losers, but I'm not  
20 exactly sure that that's going to be the -- I mean.

21 DR. SOMERS: Right. If you're just talking about  
22 the add-on?

1 DR. NAYLOR: Yes.

2 DR. SOMERS: That makes everyone earn more.

3 DR. NAYLOR: Yes.

4 DR. SOMERS: That makes everyone a winner.

5 And it's just when you change the way you're  
6 paying and divide the fee-for-service payment up into a  
7 capitated portion, and the per-service portion is what  
8 creates the winners and losers. And that's just  
9 surrounding the fee-for-service payment as it is, not with  
10 the add-on.

11 So you're right, that everyone can earn more-

12 DR. NAYLOR: Right.

13 DR. SOMERS: -- if the add-on is big enough.

14 DR. NAYLOR: So the other thing I'm wondering is,  
15 in terms of the evidence base to support one or the other  
16 of these models, there's a fair amount of work around what  
17 happens when you add care management to fee-for-service  
18 versus when you get engaged in real practice  
19 transformation. And I'm wondering if that might help us in  
20 thinking about the best choice here. There is huge  
21 investment from CMMI and others in practice transformation.

22 And the last thing, on performance incentives,

1 I'm wondering with \$2.60, we didn't go there. But I think  
2 that it would be helpful to think about what we have  
3 learned with NCQA's and other's assessment of even small  
4 practice relative to performance, to think about what we  
5 might be able to glean if we move toward a more  
6 performance-based, patient/beneficiary-centered model.

7 [Off microphone] Did I go into the next  
8 [inaudible]?

9 DR. MILLER: No. I mean, the last question is  
10 tipping in the sense that it sounds like you might want to  
11 go into performance-based, but that's not what I want to  
12 deal with.

13 You very quickly said, \$2.60, but we didn't go  
14 there.

15 DR. NAYLOR: So we didn't engage in defining  
16 practice requirements, and we didn't-

17 DR. MILLER: Now I'm with you.

18 DR. NAYLOR: Yeah.

19 DR. MILLER: No problem. I understand what you  
20 said.

21 DR. CROSSON: David.

22 DR. NERENZ: Just either 8 or 12, whichever one

1 you get to easiest because it's the same table, just the  
2 two models. The third column, the reduction. Those  
3 figures are made on assuming basically a no-change model in  
4 the sense of quality utilization. So, for example, if you  
5 change primary care payment, you're assuming no change in  
6 number of ED visits, no change in unnecessary tests, no  
7 change in avoidable hospitalizations.

8           So it's just purely about the dollars. Every  
9 dollar you put into primary care you've got to take out of  
10 somewaplace else. That's the --

11           DR. SOMERS: That's right. It's a static --

12           DR. NERENZ: Yeah. Okay.

13           DR. SOMERS: -- 2014 look, yeah.

14           DR. CROSSON: Bill.

15           MR. GRADISON: Two questions. Congress recently  
16 acted in a sense on this subject. They didn't move any  
17 money around, but they did provide modest increases, about  
18 a half a percent a year for a while. Then, in 2019, it  
19 moves into a choice for physicians between going into the  
20 alternative payment methods, the APMs, or into the MIPs,  
21 the Medicare Incentive Payment system.

22           Question. And you may want to give a little

1 thought to it and come back to it. Does that choice that  
2 has to be made tip one way or the other to benefit primary  
3 care physicians versus people who are not doing primary  
4 care?

5 I'd just ask you to mull that one over because  
6 there may be some things built in here under the surface  
7 that may influence this one way or the other. So that's  
8 the question. I'm not expecting an immediate answer.

9 A more specific question is how would this  
10 recommendation, either one of these recommendations, play  
11 out with regard to new physicians that are just building a  
12 practice and have a relatively small panel versus those who  
13 have a larger establishment?

14 I understand one would make more money, but I  
15 mean in terms of the payment that they would receive per  
16 patient as they sign up new patients. Is there anything in  
17 this that would tend to disadvantage somebody who's trying  
18 to build up? There may be a few out there who are still  
19 trying to do this that aren't working for hospitals, maybe  
20 more now since Monday, but I just would wonder if you have  
21 given any thought to how that would play out.

22 And if you want to come back on it, it's fine.

1 DR. SOMERS: Well, the first thing that comes to  
2 mind is that, you know, some think of this care management  
3 or this additional money to support some care manager, or  
4 often it's a pharmacist on staff. And so in terms of a  
5 physician just -- or some provider just -- starting out,  
6 you would need enough money up front to pay that salary.  
7 So there is probably an amount of Medicare beneficiaries  
8 that you need in your panel, to be collecting this money,  
9 to be able to pay that care manager or that pharmacist on  
10 staff. So there would be a threshold there.

11 DR. MILLER: But there's nothing about this  
12 policy that particularly advantages or disadvantages a new  
13 or established physician more than, you know, current.

14 DR. SOMERS: Yes.

15 DR. MILLER: Right. That's right.

16 DR. SOMERS: I'm speaking generally to the issue  
17 of giving money for care management.

18 DR. CROSSON: But, Bill, with respect to the  
19 MACRA, one could honestly conclude that Congress was at  
20 least considering your point; that is, it might be easier  
21 for primary care physicians to qualify for alternative  
22 payment models. And the reason is that, as you may

1 remember, they established a separate commission. I've  
2 forgotten the name exactly of it, but it was on physician  
3 payment something, which was specifically designed to look  
4 at the potential for alternative payment mechanisms for  
5 specialists.

6           And at least in reading it through, it looked to  
7 me like that was based on the concern that maybe you had,  
8 which was that in the end, as this plays out, the  
9 alternative payment mechanisms may be either more  
10 attractive or easier to manage for primary care doctors.

11           MR. GRADISON: On the others, I agree with that,  
12 but the thing that's kind of bothered me about some of  
13 those proposals is that if I were a primary care physician  
14 trying to look good from a qualitative point of view, if  
15 there was ever a close case, I'd send them to a specialist  
16 --

17           DR. CROSSON: Right.

18           MR. GRADISON: -- which runs up the cost, but it  
19 may provide better numbers for the primary care physician  
20 in terms of outcomes.

21           DR. MILLER: I think on the MIP side of things, I  
22 think what Jay was referring to was APM.

1 MR. GRADISON: APM side.

2 DR. CROSSON: And, again, that is an area where I  
3 think we have yet to see some of the salient details.

4 Where are we? Kathy.

5 MS. BUTO: Julie, I wondered if -- I don't know  
6 that we've talked that much about it, but the risk  
7 adjustment payment that you mentioned as a way to mitigate  
8 some of the redistribution, were you thinking of that as  
9 something that would be based on the individual patient's  
10 diagnosis as opposed to the pattern of practice of the  
11 physician? Because just because they did more visits or  
12 higher-level visits, you wouldn't necessarily want to --

13 DR. SOMERS: No.

14 MS. BUTO: -- risk-adjust for that, right?

15 DR. SOMERS: Right, right. I was thinking  
16 something that applied to the patient, like their  
17 individual risk score.

18 MS. BUTO: And I guess what surprised me is I  
19 assumed we'd want to have something like that because  
20 otherwise, really, physicians who treated more difficult,  
21 more chronically ill patients, et cetera, would be so  
22 disadvantaged in a situation like this. I guess I'm

1 thinking this would have to be built in, in some way, and I  
2 don't know if you were thinking of it that way.

3 DR. MILLER: So I think what we were thinking is  
4 it might drive you off of two altogether if you started to  
5 think about the complexity there and say, well, this is a  
6 level of complexity that you -- "you" meaning the  
7 Commissioners -- weren't contemplating. That might drive  
8 you back to model 1 where this isn't an issue. That's one  
9 thought.

10 A second thought is -- and some of this drives  
11 off of what Jack said -- if the clustering is not all that  
12 much variation, you could decide, well, maybe not so much,  
13 or just to make this as complex as hell, you could take not  
14 40 percent but take 20 percent or 10 percent if you felt  
15 that there were ways to mitigate this.

16 And so I think the way we were thinking about it  
17 is we weren't immediately jumping to risk adjustment. We  
18 were thinking there might be other ways you could mitigate  
19 or risk-adjust, or you might even walk away from the model.

20 MS. BUTO: Just to add one other element -- this  
21 is my second question.

22 DR. SOMERS: Oh, could I --

1 MS. BUTO: Go ahead, sure.

2 DR. SOMERS: -- just tag onto Mark's?

3 There was one other thought that we put in your  
4 mailing materials on risk adjustment, so not to totally  
5 sink model 2, but that you're still saying -- you're still  
6 paying, in our example, 60 percent per service, the 60  
7 percent of fee-for-service per service. So to the extent  
8 that the doctor has a lot of visits per beneficiary or has  
9 a lot of level 5 office visits instead of level 1 office  
10 visits, they're still going to receive more money for those  
11 visits.

12 MS. BUTO: In addition to the capitated payments?

13 DR. SOMERS: In addition to the capitated  
14 payments.

15 MS. BUTO: Okay.

16 DR. SOMERS: And the capitated payment won't  
17 change unless we do some sort of risk adjustment.

18 MS. BUTO: Yeah. No, that just seems to me to  
19 weaken the capitated payment part of this --

20 DR. SOMERS: Okay.

21 MS. BUTO: -- if we're going to do that kind of a  
22 -- that's inherently a risk adjustor, in some ways, I

1 guess, except it's more based on the level of care than it  
2 is based on the patient's condition, right?

3 DR. SOMERS: Right.

4 MS. BUTO: My second question is really about  
5 what's in the capitated payment, and it sounds like it may  
6 be just visits, not tests or screening or any of that other  
7 stuff, unless it's included in the visit and not paid for  
8 separately.

9 DR. SOMERS: Right now, the example is just  
10 visits, but everything is open for discussion.

11 MS. BUTO: Yeah. Because, I mean, if we think  
12 beyond just sort of the idea of capitation, at least in my  
13 mind, something we could think about, I guess, for Round 2  
14 is, if we're really trying to think about practice, what  
15 should be in that capitated payment. What else would we  
16 include in it?

17 DR. SOMERS: Well, under the fee schedule, I  
18 think, on average, these primary care visits account for 70  
19 percent of the primary care providers' billings, and if you  
20 expand that, we have a very narrow definition of primary  
21 care visits, where it's just the office visit, nursing  
22 facility visits, and home visits. But, if you expand it to

1 all E&M and include the inpatient hospital visits that they  
2 make and ER visits, then it's over 90 percent of billings  
3 under the fee schedule are for E&M visits. But that  
4 doesn't include tests or DME. So there are some other  
5 things that we could look at.

6 DR. CROSSON: You know, Kathy, this is anecdotal,  
7 but having been in charge of a primary care department  
8 personally early in my career, in a situation where the  
9 physicians were paid on salary, I can tell you that there  
10 was very broad variation in terms of the risk or the  
11 disease burden that was being managed by different  
12 physicians, depending upon both their interests but also  
13 their openness to patients with complex and chronic  
14 conditions, quite frankly.

15 I wouldn't know how to quantitate that, but it  
16 was very obvious, and all the physicians in the department  
17 knew well which ones were carrying the heaviest burden in  
18 terms of complexity.

19 Craig? Oh, I'm sorry. Did you have a --

20 DR. SAMITT: I have a clarifying questions.

21 DR. CROSSON: Yeah, yeah.

22 DR. SAMITT: Just quickly, on slide 10, when we

1 think about the distinction between the partial capitation  
2 payment per beneficiary and the add-on, are we thinking the  
3 methodology would be equal? One is a redistribution of the  
4 prior fee-for-service payment; one is incremental. But  
5 they're both per-beneficiary payments.

6 DR. SOMERS: They're both per-beneficiary  
7 payments, and when you look at the table here --

8 DR. SAMITT: You've added them together.

9 DR. SOMERS: -- I put them together to say it  
10 just increases your -- model 2 increases the share of your  
11 payment paid on a per-beneficiary basis because you get  
12 both fee and per-beneficiary payment, where you're  
13 increasing money to primary care --

14 DR. SAMITT: Yep.

15 DR. SOMERS: -- and you get the part that you're  
16 capitating. Yeah.

17 DR. CROSSON: Rita.

18 DR. REDBERG: So it's implied in this chapter  
19 that you have one primary care provider, but is that  
20 actually stipulated, or could you have more than one?

21 DR. SOMERS: I think you have to have one so that  
22 --

1 DR. MILLER: Or at least only one that gets --

2 DR. SOMERS: One at a time, right.

3 DR. MILLER: That gets the per.

4 DR. SOMERS: Only one that gets the capitated  
5 payment and the add-on per-beneficiary payment. You don't  
6 want to be paying twice.

7 And for care coordination, you ideally would like  
8 one primary care provider for your beneficiary. Now, that  
9 might change over time.

10 DR. REDBERG: Really, you have data -- it's my  
11 impression that people do have more than one primary --  
12 what they call primary care provider, certainly more than  
13 one cardiologist.

14 DR. SOMERS: So we looked at this a little bit  
15 last year through the discussions of the per-beneficiary  
16 payment recommendation, and we have a pretty tightly  
17 defined group of primary care providers that we're dealing  
18 with here. There are specific specialties, and 60 percent  
19 of their billings have to be for these primary care visits.

20 So, for this group, about 69 percent of  
21 beneficiaries only have one, have the same primary care  
22 provider for a year, and we looked over 2 years, and that

1 drops to 60 percent of beneficiaries have the same provider  
2 over 2 years. So there's a bit of noise there, but,  
3 hopefully, the policy -- well, one of the goals I think of  
4 the policy would be to encourage a tighter relationship  
5 between the beneficiary and a primary care provider, and  
6 increase the percentage of beneficiaries who have one  
7 provider over multiple years.

8 DR. CROSSON: I'm sorry. I was just going to say  
9 -- I think you understand this, but, as I understand it,  
10 some patients, let's say, who have a specific chronic  
11 disease may in fact use a medical subspecialist, for  
12 example, as their primary care provider. Those individuals  
13 in this context are not included; is that right?

14 DR. SOMERS: That's right. The beneficiaries  
15 have to be seeing one of these primary care providers who  
16 are under the old Primary Care Incentive Payment program's  
17 definition of certain specialties and at least 60 percent  
18 of their billings are for primary care visits. Right.

19 DR. REDBERG: My other clarifying question, how  
20 many -- what percentage of Medicare provider physicians are  
21 identified as primary care, and how many are identified as  
22 specialists?

1 DR. SOMERS: Let's see. There are 183,000  
2 providers in 2014 that were eligible for this primary care  
3 bonus payment, so that were of the specialties, and that's  
4 the group that we're dealing with here.

5 I don't remember. I can --

6 DR. HAYES: And we have about 500,000 physicians  
7 who are billing Medicare, so that works out to be roughly  
8 two-fifths or 40 percent that are in those specialties.

9 Now, it doesn't mean that they've crossed the  
10 threshold and become eligible for the PCIP, but those are  
11 the specialties, anyway.

12 DR. SOMERS: Well, no, the 183,000 are the ones  
13 eligible.

14 DR. HAYES: Oh, they are, yeah.

15 DR. MILLER: But the 183, it's not just  
16 physicians.

17 DR. SOMERS: That's right.

18 DR. MILLER: So the denominator shouldn't be  
19 500,000. It should be more like, what, 7- or 800,000, and  
20 the number would be about 24 percent?

21 DR. HOADLEY: I wouldn't go as high as that or  
22 800,000 because --

1 DR. MILLER: Well, what would you give me, Kevin?  
2 What would you give me?

3 [Laughter.]

4 DR. MILLER: How high would you go?

5 But, either way, it's higher than --

6 DR. REDBERG: Of the 183,000 are physicians?

7 DR. MILLER: No, no. The 183, just to clarify,  
8 is not just physicians.

9 DR. REDBERG: But how many are physicians? Do we  
10 know?

11 DR. MILLER: Oh, that, I don't know.

12 But, as a percentage of this, I would think that  
13 the denominator would get closer to 700,000 or thereabouts,  
14 and you would be more in the 25-35 range.

15 DR. SOMERS: We can get into that. We can get  
16 some more specifics on that.

17 DR. REDBERG: Thank you.

18 MS. THOMPSON: So I'm going to come out of the  
19 weeds, Julie. I love this discussion.

20 But, if we go back to what's the problem we're  
21 trying to solve, we clearly do not have enough primary care  
22 physicians. We're not incenting young medical students to

1 choose primary care as a residency, and access is  
2 decreasing. Do we know anything about what will it take in  
3 terms of the number to make a medical student look at  
4 primary care as opposed to a specialty?

5 I mean, directionally, this is all correct. It's  
6 correct around improving coordination of care, but are we  
7 moving quickly enough to address the access issues that  
8 we're facing?

9 DR. HAYES: We don't know what that threshold is.  
10 The Commission's view has been that we want to move in the  
11 direction of correcting imbalances in the fee schedule.  
12 The position has been that while access to care in general  
13 is good for Medicare beneficiaries, there is, over the long  
14 run, a risk for access to primary care, and so the goal is  
15 to sort of tip that balance and try to head off any long-  
16 run problems that might develop. But what the precise cut  
17 point is is hard to know.

18 DR. CROSSON: But it's more than a little.

19 Jon?

20 DR. CHRISTIANSON: Now, could we go to slide 13?

21 So, in model 2, you used as your example or your  
22 -- for instance, on higher payments for visits, more visits

1 coded level 4, level 5. Would higher payments for a visit  
2 also be visits provided by -- all else equal, provided by  
3 hospital-owned primary care practices?

4 DR. SOMERS: No. This is -- let's see. This is  
5 just --

6 DR. CHRISTIANSON: Aren't they allowed to bill at  
7 a higher level?

8 DR. SOMERS: They are. This is just the  
9 physician component.

10 DR. MILLER: This is on the fee schedule side,  
11 though.

12 DR. SOMERS: So it would actually go the other  
13 way. When you're looking at the payment per visit and the  
14 fee schedule if you're in a non-facility, you have those  
15 non-facility practice expenses embedded in there, and you  
16 have a higher payment rate per visit than if you're at a  
17 facility where there's a different check cut.

18 DR. CHRISTIANSON: So model 2, conceivably,  
19 transfers more income to hospital-based practices? I don't  
20 understand what you said. I thought you just said it went  
21 the other way, so --

22 DR. MILLER: So all right. I would answer this

1 question two ways. One, I would say to the extent that  
2 we're looking at the effects here, we're looking at the  
3 effects on visits that are given by providers and paid out  
4 of the fee schedule, and so, in a sense, all we're looking  
5 at, Jon.

6 But I do think you have a potential point, but  
7 let me see if I'm getting to it.

8 [Laughter.]

9 DR. MILLER: We're looking for it -- we're  
10 looking at it on the fee schedule side of things, and so to  
11 the extent that something gets bought and moved and billed  
12 through OPD, it wouldn't be in this analysis.

13 DR. CHRISTIANSON: Okay.

14 DR. MILLER: However, your point could be -- and  
15 then I'll just let it go back to you -- but if somebody  
16 comes along and purchases a practice, does this visit get  
17 reimbursed at the higher rate when that happens, and I  
18 think the answer to that is yes.

19 DR. SOMERS: Well --

20 DR. CHRISTIANSON: Do you agree with that? I  
21 feel like I'm mediating.

22 DR. MILLER: Why wouldn't it?

1 DR. SOMERS: So we can work on that issue. This  
2 is just looking at the physician fee schedule. So if a  
3 beneficiary goes to an outpatient, a hospital outpatient  
4 department and has an E&M visit, that's going to be --

5 DR. MILLER: But they would be still going to  
6 their physician's office.

7 DR. SOMERS: They'd be still going to their  
8 physician's office, so the price per visit under the fee  
9 schedule, because it doesn't have that facility payment to  
10 the outpatient in the fee schedule -- it's somewhere else  
11 in the Medicare payment system -- the price per visit in  
12 that outpatient facility under the fee schedule is less  
13 than what it would be if the physician was in his office.

14 DR. CHRISTIANSON: Maybe this is just something  
15 to take a look at.

16 DR. SOMERS: But this is -- yeah. So this would  
17 be a detail that would need to be --

18 DR. CHRISTIANSON: Yeah, I'd be interested.

19 The other thing I want to do is just commend you  
20 guys on the careful use of words in this statement of goals  
21 here. I mean, you did talk about changing the fee  
22 schedule. You did talk about paying for physician visits

1 as opposed to paying physicians more, because, obviously,  
2 we're in a world where more and more physicians are  
3 salaried employees of -- primary care physicians of  
4 organizations, so the organizations determine what  
5 physicians get paid. And the dollars that come for higher  
6 payment for services may or may not go into care  
7 coordination, may or may not be passed on, to some degree,  
8 to physician salaries.

9           So I think the way you've very carefully handled  
10 that I think underscores it when we think about behavioral  
11 responses to this. More and more, we need to think about  
12 organizational behavioral responses and not individual A is  
13 going to get more money for delivering primary care, and I  
14 think you set that up very nicely in your chapter in how  
15 carefully you sort of framed everything.

16           DR. SOMERS: Thank you.

17           DR. CROSSON: Okay. So, for this one, I don't  
18 have a straw-person, and, boy, do I wish I did.

19           [Laughter.]

20           DR. CROSSON: We are running a little bit late.  
21 I'm betting that our last session may take a little less  
22 than an hour and a half. We'll see.

1           So I'm going to suggest we do this, that we try  
2 to take on -- and I'm looking for a rapid fire "yeah, yeah,  
3 yeah," "no, no, no" stuff here, that we try to take on the  
4 issue of do people like model 1 or do people like model 2  
5 better, right?

6           Then we take on the issue of the -- where we want  
7 to land on that ladder of payments and therefore reductions  
8 in payment to other specialties, and depending upon where  
9 we are then -- for example, if we're at model 2 and we're  
10 moving up the ladder, then I think we need some preliminary  
11 discussion about some of these other issues, including  
12 attestation, potentially risk adjustment, maybe we can  
13 defer practice requirements and performance measures for  
14 later. But that's sort of what I'm thinking is the logic  
15 chain here, okay?

16           So let's take them in discrete pieces. What's  
17 the sense of people in terms of model 1 or model 2? I like  
18 model 1 or I like model 2, and why or why not?

19           Mary?

20           DR. NAYLOR: I like model 2, although there's  
21 much to learn. But, anyway, so let me just give you some  
22 thoughts about why I think model 2 has advantages of

1 helping us get to the culture of care that we are seeking  
2 for Medicare beneficiaries. It places a focus on the  
3 practice versus the individual. It really promotes the  
4 kind of -- I mean, I think relative to model 1 -- promotes  
5 the kind of teamwork. It helps us to begin to think and  
6 move away from visits to contacts and the kind of thinking  
7 about using telehealth. I mean engaging the full  
8 repertoire of opportunities. It progresses our speed, I  
9 think, by taking this on, as complex as it is, to moving  
10 toward a more value-based model of care, getting us further  
11 along in capitation as the opportunity.

12 I think we really can add to some of the ways in  
13 which you have been thinking about it by placing attention  
14 on performance, and the whole notion of value and measuring  
15 practices relative to -- the value to the beneficiary. And  
16 that is not practice requirements. I think we should stay  
17 far away from that, but relative to how people's health is  
18 progressing, how their experience with care is, their  
19 healthy days at home, all the things -- and use of  
20 resources.

21 I do want to highlight that when you look at  
22 183,000, even if you were to look at it, you wouldn't

1 really know what the denominator is. I mean meaning you  
2 won't know how many are physicians are nurse practitioners.  
3 Medicare's own work is suggesting the growing role of nurse  
4 practitioners and PA in the delivery of primary care.

5           And I think since many of these are still being  
6 billed incident 2, as we've gone through, we don't really  
7 know who's delivering these services. But we do know from  
8 the survey that we are increasingly relying on a very  
9 different workforce and a team-based model of care, and so  
10 I think that this kind of model helps to accelerate and  
11 capitalize on that.

12           DR. CROSSON: Craig, I apologize. You had  
13 volunteered, so go ahead.

14           DR. SAMITT: No worries. I think Mary said it  
15 beautifully, and I would also completely underscore the  
16 imperative for model 2. And the reason why I would is --  
17 and, actually, I think the goals are wrong, by the way. I  
18 mean, I think the goals that I would underscore are not  
19 these. These are tactics. I think the goals are we're  
20 trying to improve accessibility and desirability of primary  
21 care, is really goal number one. And goal number two is to  
22 improve care coordination and quality of care.

1           And the reason why I underscored model 2 is model  
2 1 does not accomplish really either of the goals. It's a  
3 minor redistribution, which certainly does not move us  
4 anywhere in the direction of population health or care  
5 coordination. I think only as we move in the direction of  
6 model 2 do we actually make substantive improvement in that  
7 regard.

8           And I certainly also have comments on magnitude  
9 and distribution, but I can hold that until we get to that  
10 point. But, absolutely, model 2 is the way to go.

11           DR. CROSSON: Sorry, but I'm going to try to keep  
12 it -- so I'm seeing a lot of bobbleheading around model 2,  
13 so let's -- right. Let me just for time -- let me ask for  
14 people who have a model 2 and a different point to make or  
15 who are in favor of model 1.

16           So, Kathy, Bill, Alice.

17           MS. BUTO: I'll do it quick.

18           I'm in favor of model 2. One of the things I  
19 would ask us, as we develop this model, to think about is  
20 broadening the things that are in partial capitation.

21           So, if one of our goals, as Mary was saying  
22 earlier, is to improve practice, et cetera, there are areas

1 where physicians, I think, could even make, in a way, more  
2 money by reducing utilization of some of the ancillaries  
3 that right now are just billed separately. And I think we  
4 want to look to giving them some incentive to doing that.  
5 How we do it, I don't know exactly, but that's one.

6           Back to Craig's point about our basic goal being  
7 increasing the appeal and the traction of getting into  
8 primary care, I would think about this model as being  
9 surrounded by other benefits, that if you're -- I don't  
10 know if we're going to make this mandatory or operational  
11 or voluntary, but CMS and Medicare has a lot of flexibility  
12 to reduce paperwork, improve payment quickness. There are  
13 things you can do to make providers' lives a lot easier, so  
14 make it more attractive than just changing the payment by  
15 surrounding it with other things.

16           Maybe you've got greater flexibility on  
17 telemedicine by definition. There might be things that  
18 other physicians couldn't get but if you're in this  
19 arrangement would attract you to it because it has a lot of  
20 other benefits to it.

21           DR. CROSSON: Thank you, Kathy.

22           I was actually wondering earlier where you were

1 going with that and whether you were talking about  
2 downstream costs because I agree with that point.

3 Bill.

4 MR. GRADISON: I think it's really important not  
5 to get too carried away about the benefits of this  
6 proposal. I suppose number two, but I'm not sure it's the  
7 answer to a beneficiary's prayer.

8 Let me call attention to our own document on page  
9 27. Basically, it says, referring to our earlier  
10 recommendation, that the \$2.60 was not considered enough  
11 for practices to make substantial improvements in care  
12 coordination activities and technologies that would  
13 significantly transfer the delivery of care. I want to  
14 elaborate upon that.

15 But the next sentence, which relates to the  
16 question of practice requirements is, I think, more  
17 significant, and again, I'm reading: The Commission was  
18 also concerned about the lack of evidence showing that  
19 practice requirements improved outcomes, such as higher  
20 quality or lower health care spending. Now, if that's  
21 true, then we have to -- why are we doing this? I think  
22 Craig's point is the place to start, without necessarily

1 assuming that the changes we would like in terms of outcome  
2 will necessarily be forthcoming anytime soon.

3 I am not bringing this up to recommend that there  
4 be mandatory practice requirements. I would make the  
5 point, however, that the various practice requirements that  
6 are listed in our document include management of care  
7 transition, medication reconciliation, coordination, dah-  
8 dah-dah, the very things we want. We're saying in the  
9 document that they're not necessarily related outcomes. So  
10 I'm just saying let's be careful how we package this thing.

11 DR. CROSSON: Thank you, Bill.

12 I'm sorry. Did I miss somebody? Okay. I had  
13 Alice and Jack, I think.

14 DR. COOMBS: So, as I was reading the chapter --  
15 thank you very much, Julie -- the question I had when  
16 looking at the two different models is not -- it's more  
17 when. I want to remind us that we're replacing the PCIP.  
18 We're actually replacing something that we think needs to  
19 continue, but in that replacement, we're actually moving  
20 quickly to something that I think it takes a lot more time  
21 to develop some of the things of the uncertainty. As we  
22 talked about this, even though the visits may increase,

1 you're taking a hit on each one of those visits for  
2 comorbid conditions.

3           So my whole issue is that you fear loss greater  
4 than you desire gain at \$2.60, so that's the basic line. I  
5 think going forward, I think that model 2 is a good thing,  
6 but the question is when. Our strategy was replacing the  
7 \$2.60. So we've graduated to the Cadillac model very  
8 quickly and added \$2.60 to that, so that was my concern.

9           DR. CROSSON: Well, we're not -- we haven't  
10 talked about the amount yet.

11           DR. COOMBS: Okay, okay.

12           So, I mean, before, when we had our previous  
13 discussion, that was --

14           DR. CROSSON: That was --

15           DR. COOMBS: That was the assumption.

16           So my question is -- and then I'm going to be  
17 honest with you. I'm going to be real, okay? If I was an  
18 internist and I saw this coming at me like this and all the  
19 questions that I have, I would say, "That sounds like a  
20 good plan for someone."

21           [Laughter.]

22           DR. CROSSON: Jack.

1           Are you raising your hand?

2           DR. CHRISTIANSON: Yeah.

3           DR. CROSSON: I'm sorry.

4           Yeah, Jack.

5           DR. HOADLEY: I mean, I think I'm comfortable  
6 with this notion. I like the arguments that I've heard  
7 around it.

8           I guess one of the things I'm trying to think  
9 about is what would this look like in the sense of -- I  
10 mean, I don't think we're thinking that 100 percent of  
11 Medicare beneficiaries are going to end up having their  
12 care managed through this model, and I think that's okay.  
13 So you've got a combination of the people -- I think Rita  
14 raised this -- who get their primary care through their  
15 cardiologist, their endocrinologist or whatever, depending  
16 on the particular chronic condition that they're dealing  
17 with. We've sort of left them aside, and so they would not  
18 potentially have a primary care physician, so no change  
19 would be going on. That's probably okay for something  
20 we're trying to move forward.

21           We have another set of beneficiaries whose maybe  
22 use of care is minimal, and they're not really doing sort

1 of a routine use of a primary care provider, but instead  
2 are dealing with things as issues come up.

3           So I think I -- just I'm trying to -- it's almost  
4 like a clarifying question of, is that in fact the way we  
5 see this, that some percentage, 60 percent, 40 percent or  
6 whatever of beneficiaries will end up having one of these  
7 attestations -- or whether we do it formally or not is  
8 still an open question -- and getting money moved around as  
9 a result and there's some other subset of beneficiaries for  
10 whom this simply won't happen?

11           DR. CROSSON: Well, I mean, I'll answer it, to  
12 the extent that -- I mean, again, we're sort of starting  
13 out. We're not really starting out, but we're starting out  
14 in a new direction. If this were to work, my sense is it  
15 could be expanded. It could be expanded in a number of  
16 ways, type of practitioner for sure, but also -- I mean, I  
17 think the fact that some family practitioners, but many  
18 internists, practice both internal medicine and a  
19 subspecialty, and so I think my sense is that this could be  
20 potentially broadened once the point is proved that it is  
21 working potentially.

22           DR. HOADLEY: And the internists under the PCIP

1 rules, many of them would not qualify, some would, and so,  
2 like you say, you could move those percentages, those rules  
3 at some point later to do it. So, I mean, I think that's a  
4 -- I just think it's something, a good framework to keep in  
5 mind, that we're not necessarily moving 100 percent of the  
6 population in this first phase if we were going to do this.

7 DR. CROSSON: Jon.

8 DR. SOMERS: I can add it's 24 million -- or 23  
9 million beneficiaries that saw one of these eligible  
10 primary care providers.

11 DR. CHRISTIANSON: I just wanted to say that I  
12 agreed with everything that Bill said. I think we don't  
13 want to oversell this. If we really think the problem is  
14 better care management, we should figure out a way to pay  
15 for better care management. This is kind of a trickle-down  
16 theory of better care management. Maybe we don't do that  
17 because we don't know what works. That's what we thought a  
18 few months ago. So I agree with you, Bill. I think that  
19 you're right on.

20 I think the best chance of getting better care  
21 management and so forth is probably continuing our support  
22 for accountable care organizations, which seem to me to

1 provide better overall incentives to use primary care  
2 physicians efficiently and so forth than this.

3 But, having said all that, of the options  
4 available, I think model 2 is fine.

5 DR. CROSSON: And, as we talked about in July, we  
6 have to work on the Ferrari and the Mustang, and I  
7 certainly agree this is Mustang work at the moment.

8 Okay. So -- Kathy.

9 MS. BUTO: Just to Jon's point, I mean, Jon, is  
10 there any reason why this couldn't -- if model 2 were  
11 something we could make -- seem workable, why wouldn't an  
12 ACO be able to get paid essentially per-beneficiary  
13 payments for their -- that might simplify.

14

15 DR. CHRISTIANSON: I don't know. I suppose they  
16 could. My only point is to agree with Bill that  
17 overselling this is a way of sort of accomplishing other  
18 goals rather than just sort of narrowing the fee schedule.  
19 It makes me a little bit uneasy, I guess.

20 DR. CROSSON: Mary.

21 DR. NAYLOR: I do want to clarify because I think  
22 this is really important, what you raised, and so maybe

1 it's the language.

2           There is a pretty robust body of evidence that  
3 many of the care practice requirements, 24/7 access and so  
4 on, really get to better access, get to better care. So  
5 I'm not sure what the language in the chapter was, but I  
6 think that we should not -- and we have many practices  
7 throughout the country that are going through this  
8 transformation. The patient-centered medical home relative  
9 to traditional fee-for-service is demonstrating absolutely  
10 better access, better quality, and better performance. So  
11 I don't think we're as -- I actually think what we're  
12 trying to do is then to create the payment model that  
13 motivates that.

14           When I said practice requirements, I really felt  
15 that we shouldn't be saying what you should do as a  
16 practice versus you, but rather we should hold you  
17 accountable for using the right set of tools to get to  
18 performance. But there's a very robust body of evidence,  
19 and I think -- and a lot already going on throughout the  
20 country in primary care transformation.

21           DR. CROSSON: Okay. Could we put up either --  
22 sorry. Mark? Did I miss -- Rita.

1 DR. REDBERG: I just wanted to add my agreement  
2 with model 2 and what Jon and Bill raised because I am  
3 concerned this -- while it does accomplish some rebalancing  
4 of payment, it doesn't accomplish care coordination in  
5 particular.

6 I mean, I see patients in cardiology that were  
7 seen by, I think, these high-volume primary care practices.  
8 I mean 20-year-olds who had echoes for dizziness, and I'd  
9 say, "And what did your doctor tell you about this test?"  
10 And they'd say, "They told me I should come see you." They  
11 didn't need to be seen, but I think in this -- so we  
12 wouldn't want to encourage that.

13 DR. CROSSON: Right. And I think Kathy was  
14 getting at that a little bit earlier when she talked about  
15 potentially rolling in some sort of risk for downstream  
16 cost. That gets more complicated, but it moves us further  
17 in the right direction.

18 Okay. So could we put up, let's say, slide 12 or  
19 one of those ones that has a chart on it? This doesn't  
20 show the whole range that we had in the pre-reading, but I  
21 would like to get a sense from the Commission. Since we  
22 seem to have an overwhelming consensus in view of model 2,

1 we'll move ahead with that.

2           In terms of the amount that we're talking about,  
3 we currently have \$2.60, with all the consequences that  
4 fall from that.

5           As we've heard the discussion here and  
6 recognizing that we are potentially fixing part of the  
7 system that could be replaced by another system, but, in  
8 the meantime, we're fixing this system that we have, where  
9 are people thinking?

10           And, Craig, I'd ask you to start.

11           DR. SAMITT: I mean, I've underscored before that  
12 the \$2.60 from my point of view is not substantive enough.  
13 Although this is the point where I think others have  
14 comments on the fact that we're automatically assuming that  
15 the way to fund this transformative approach to primary  
16 care is we need to take from specialists to give to primary  
17 care. The reality, though, is that if you do shift to per-  
18 beneficiary payment, the real opportunity is not  
19 necessarily just in per-unit reimbursement in the  
20 specialties. It's total utilization.

21           So, in the hands of primary care or practice that  
22 isn't on a treadmill and actually has the opportunity to

1 say, "Should I refer to this cardiologist? Should I order  
2 this test? Should I stay later to make sure that this  
3 patient doesn't get hospitalized?" the value from that is  
4 more than enough to fund sufficient additional primary care  
5 payments, in the absence of redistribution from specialty  
6 to primary care.

7           So I think \$2.60 is too low. It needs to be high  
8 enough -- and I think there are two parts here. One is,  
9 what additional funding needs to flow to primary care, and  
10 then what percentage needs to shift to per-beneficiary  
11 payment? It needs to be enough that the model does not  
12 default back to making it up on volume, which I think most  
13 would say needs to be in the magnitude of 20 percent or so.  
14 That 7 percent is not sufficient to drive sufficient change  
15 in behavior.

16           DR. CROSSON: So now you're talking about the  
17 percentage of per-beneficiary payment, 20 percent?

18           DR. SAMITT: Per-beneficiary payment, I think  
19 needs to be at least 20 percent, if not higher, and then we  
20 could pick any of a magnitude of percentages in terms of  
21 how much more to supplement primary care. I think if you  
22 look at some of the more advanced direct primary care

1 models out there, their total compensation is in the range  
2 of 20 to 40 percent more per beneficiary. And this isn't  
3 just the shift from a fee-for-service to per-beneficiary  
4 payment. This is an additional payment per beneficiary as  
5 well to fund the additional steps and activities that the  
6 practice would take to reduce downstream utilization.

7           So, if you're spending -- let me give some  
8 statistics. If we estimate that we pay primary care 6 to 7  
9 percent of total cost of care for primary care, but in the  
10 hands of a high-performing primary care practice, you can  
11 reduce total cost of care from 10 to 20 percent, you have  
12 quite a ways to go in terms of increasing per-primary-care-  
13 physician reimbursement of per-beneficiary reimbursement,  
14 far more than \$2.60.

15           DR. CROSSON: I completely -- I totally agree  
16 with you in terms of management of the full health care  
17 dollar. There's no question about that. We have a more  
18 limited proposal here that we have to deal with.

19           So what I heard you talk mostly about was the  
20 percentage of payment that shifts to per beneficiary, and I  
21 personally would agree with that as well. But I still --

22           Just one second, David.

1 I still think we need to say, if we think \$2.60  
2 isn't enough, where do we think we ought to be on that  
3 transfer ladder or whatever you want to call it?

4 David.

5 DR. NERENZ: Well, on this point, I really now  
6 question the numbers in the left-hand column. The second  
7 bullet on top says 40 percent is now allocated to partial  
8 capitation, which would be well above Craig's threshold of  
9 20. And that's part of certainly my reason for favoring  
10 two.

11 It seems odd then that the numbers in the left-  
12 hand column here are exactly the same as the same  
13 equivalent column on slide 8, which is model 1.

14 So are we really talking \$2.60? Or are we  
15 talking some much bigger number.

16 DR. CROSSON: I think we're talking the size of  
17 the payment pool, and then we're talking about the degree  
18 to which it's divided into fee-for-service and per-  
19 beneficiary payment, two separate things.

20 DR. NERENZ: Well, but it may be a vocabulary  
21 question. In model 2, is the term per-beneficiary payment  
22 synonymous with partial capitation payment or are those two

1 different things?

2 DR. SOMERS: Yes, so up there, the 32 percent --  
3 is that the number you were looking at? That is the share  
4 paid on a per beneficiary basis and includes both the \$2.60  
5 per month plus the 40 percent that you would take from fee-  
6 for-service and move over to a capitated payment.

7 DR. NERENZ: Is that 40 percent number in that  
8 table?

9 DR. SOMERS: It's what gets you to the 32  
10 percent.

11 DR. NERENZ: But that dollar amount is not in  
12 that table?

13 DR. SOMERS: No.

14 DR. NERENZ: That's okay. That's okay. I'm  
15 worried we're getting -- you're sort of asking about is  
16 that \$2.60 the right amount. And at least in my head,  
17 you're asking me is that the right amount for the partial  
18 capitation. But that's not what we're asking.

19 DR. CROSSON: No, no, no. We're asking about the  
20 size of the primary care pool. And at the moment, we are  
21 talking about a transfer from other specialty.

22 DR. SAMITT: Yeah, I guess if I were to modulate

1 the proposal I would start, at a minimum, at the \$5.20. So  
2 I think the 13 to 14 percent increase -- from a model 1  
3 perspective I know we're talking apples and oranges -- to  
4 sort of more in the magnitude of what I've done  
5 historically in the organizations that I've led.

6 So \$2.60 is too low. I would start, at a  
7 minimum, at \$5.20.

8 The other thing that I would argue is that,  
9 again, as you also shift to per beneficiary payment, the  
10 funding doesn't necessarily have to come from other  
11 services, specialists. It can potentially come from  
12 foregone downstream utilization.

13 DR. CROSSON: I absolutely agree with that. And  
14 as we potentially build this in the future, as Kathy  
15 suggests, we may come back to that issue in terms of what  
16 is at risk in that primary care payment. But I'm still --

17 DR. MILLER: I am going -- because this one has  
18 gone around the merry-go-round a couple of times. I'm  
19 going to say something.

20 To Craig's point, while I believe that that is an  
21 absolute potential and I believe results have been seen in  
22 certain types of systems, remember this is Wild West fee-

1 for-service and you may not -- you know, the contents may  
2 settle. Okay? And so you may not get quite the same  
3 effect. So that's the first thing.

4           And I think if you don't do a dollar trade here,  
5 you will be scored as a cost. CBO will go at this and  
6 won't give a lot of love to the yes, but you'll get a  
7 management on the total dollar.

8           The second thing I would say, as much as I like  
9 these ideas of there should be some downstream  
10 accountability -- back to Bill and back to Jon -- there's a  
11 lot of noise here when you have an individual practice.  
12 And so the ability to measure that, even if you knew what  
13 you wanted to measure, will be somewhat limited.

14           So I hate to be the wet blanket here, but keep  
15 those two thoughts in mind as you go down this road.

16           MS. BUTO: But Mark, on that point, you could go  
17 after overpriced procedures or some subset. It wouldn't  
18 have to be an across-the-board tax on every service. In  
19 mean, there are a number of ways that you could go at this  
20 that are scorable.

21           DR. MILLER: Absolutely. And I did not mean to  
22 imply you couldn't get it out of other parts of the fee

1 schedule, although there was -- and I don't know what your  
2 judgment is on this, Kevin, in particular. The Part B reg,  
3 they're required by law to come up with 1 percent of  
4 overpriced procedures. Well, that's what they were  
5 required to come up with. They came up with 0.23, less  
6 than three-tenths, and then had to take the rest of it as  
7 just an across-the-board.

8           So at least -- you know, I am theoretically  
9 completely with you. And in fact, so is the Commission.  
10 The Commission has said that publicly, that that's the way  
11 to go. So your logic is sound. How much we can actually  
12 get our hands on....

13           DR. SAMITT: Can I just make one other comment,  
14 which is we took off the table, I think when we were  
15 talking about small numbers and we were talking about model  
16 1. We said we wouldn't tie any of those amount to  
17 performance related metrics.

18           Although as we think about more model 2, we may  
19 want to revisit that. In fact, this is an area where we  
20 very much can learn from industry, whether it's my current  
21 organization or others that have done this. That there's  
22 no reason why we can't tie a percentage of -- a portion of

1 the per-beneficiary payment to some key performance  
2 measures that measure quality or efficiency, et cetera.

3 DR. CROSSON: Now I feel the need for a caution  
4 similar to Mark's, which is we're not trying to redesign a  
5 small version of an ACO here; right? I mean, that's what  
6 you and I both believe, or something like it, is the model.  
7 Arguably, we're trying to fix, for a while, a different  
8 part of the payment system and specifically fix it in such  
9 a way that we resolve a long-lasting problem of disparity  
10 of payment among specialities.

11 So we could -- while I believe all of what you're  
12 saying, and I think we can find ways to do that perhaps  
13 here, we don't want to necessarily over-design what we're  
14 doing here.

15 So I know it's getting late and people are tired  
16 and we're running the risk of not thinking this through  
17 properly here, but we have -- I sound like an auctioneer  
18 here -- we've got \$5.20 on the table. I mean, do I hear  
19 arguments for sticking with \$2.60? Or do I hear arguments  
20 for going more aggressively up to a higher number? Or are  
21 people, because of their general lassitude, thinking that  
22 \$5.20 is modestly increasing the amount of money that's

1 paid to primary care physicians now through model 2 is  
2 where we want this to go?

3 DR. REDBERG: Jay do we have any data on how this  
4 would change physician behavior or incentives? The kind of  
5 magnitude of -- because I thought about it when I was  
6 reading the chapter. I thought well, \$2.60 doesn't sound  
7 like a lot, but it's per beneficiary so if you multiply it  
8 by --

9 DR. CHRISTIANSON: Again, if we did it probably  
10 would be out of date because it's got to be filtered  
11 through the organization. So it depends on how the  
12 organization the physician works for decides to change the  
13 physician incentives when the payment changes.

14 I know all physicians don't work for  
15 organizations, all primary care docs, but an increasing  
16 percentage do. And so it takes a while to get something  
17 like this in place and then it takes a while for people to  
18 respond. Again, it's not just how a physician would  
19 respond to this. It's an organizational response.

20 It's very hard to figure that out at this point.

21 DR. CROSSON: But you can make a bit of your own  
22 judgment here. If you look on the slide, we're talking

1 about \$7,708; right, on average. It will vary, but on  
2 average. And we're talking about what was the average  
3 salary, \$183,000, or something like that? \$220,000 or  
4 something like that?

5 I mean what is that, 3.5 percent? I mean, that's  
6 more than it was before.

7 This is not going to -- and I'm going to make a  
8 couple of comments in a minute. This is not going to solve  
9 this problem.

10 DR. CHRISTIANSON: And that's if it all gets  
11 passed through. DR. CROSSON: Yes, Jon, if it all gets  
12 passed through. If it all gets passed through.

13 But anyway, even if it all gets passed through,  
14 it's hard to believe that this is going to change the mind  
15 of a senior medical student with \$400,000 of debt in terms  
16 of what career that individual chooses.

17 But we have an expiring additional payment that  
18 is currently being paid to physicians now. It's going to  
19 lapse. We want to replace it with something as opposed to  
20 necessarily waiting for the larger solution. And I want to  
21 speak to that in a minute, but --

22 MS. BUTO: What is the chronic care management

1 fee add-on? Because that apparently is not --

2 DR. CROSSON: It's a lot more. What is it?

3 DR. SOMERS: It's \$42.

4 MS. BUTO: That has not attracted, it sounds  
5 like, very many physicians to this.

6 DR. CROSSON: It's not been taken up, but my  
7 understanding it's not been taken up because of regulatory  
8 complexity surrounding it. Is that right or wrong?

9 DR. SOMERS: Yeah, there's been small surveys of  
10 providers. They will say things like the beneficiary there  
11 has to pay a copayment on the \$42 bill and they don't want  
12 to ask their beneficiaries to pay a copayment on services  
13 that they don't see, that aren't face-to-face.

14 The other -- I think the complaint is that you  
15 have to bill 20 minutes of behind-the-scenes work per month  
16 for that bene, or you have to have 20 minutes, and that  
17 it's difficult to keep track if you spend five minutes here  
18 and five minutes there, and then maybe you spend 17 minutes  
19 that month but 45 minutes the next month. And so that  
20 makes it difficult.

21 But there's also, in some small surveys, a large  
22 number of providers in small surveys weren't even aware of

1 the new code. So it could also be something that grows  
2 over time, being that this is the first year.

3 DR. CROSSON: I'm going to suggest, we're going  
4 to have to come back, obviously, in March?

5 DR. MILLER: I don't know. We don't know yet.  
6 We've got to look at the schedule.

7 DR. CROSSON: We don't know yet. We're going to  
8 come back at some point. We're going to work on model 2.  
9 We're going to work on a range of payment which is more  
10 than \$2.60, somewhere between two and four times that. I'm  
11 arguing; right?

12 And we are going to bring forward, as a  
13 consequence, those additional issues which are most salient  
14 at that point, including the question of attestation or  
15 consent and how that would work, potentially practice  
16 requirements -- I didn't hear a lot but I did hear some for  
17 that. Potentially performance measurements, potentially  
18 the range of risk that we're talking about although I think  
19 we may be limited somewhat there. And the question of risk  
20 adjustment.

21 And we'll take another look at that. We have  
22 closed the circle to some degree here but not completely.

1           And I think, and I just want to make some closing  
2 comments here. I think we've heard a number of people say  
3 -- and I believe this -- that this is not the ideal  
4 solution for the problem we're trying to solve, either  
5 quantitatively or qualitatively. There are other things at  
6 play, including the development of alternative payment  
7 models and ACOs and other things that will have either a  
8 direct potentially or indirect effect on payment levels and  
9 incentives for physicians choose a career -- physicians and  
10 other health professionals choosing careers.

11           Over the last week or so, I went back and did  
12 some reading from 1988 -- yeah, I was alive then -- with  
13 respect to the RBRVS system. The thinking of Bill Hsiao  
14 and the researchers from Harvard Public Health School, in  
15 terms of what problem they were trying to solve at the  
16 time, and also what expectations they had from the  
17 development of this RBRVS model.

18           Not entirely, but in part -- ironically -- it was  
19 to solve this problem. Because the belief at the time was,  
20 in 1988, that the disparity in payment between primary care  
21 and specialty care was too much and it was having an  
22 adverse effect on beneficiaries and on physicians in terms

1 of their choices of life, career and profession.

2           It was the belief at the time that the  
3 institution of RBRVS would solve, at least in part, that  
4 problem. That has not occurred. In fact, what has  
5 occurred -- and it's not necessarily the fault of the  
6 model, but I think potentially in part it is, that the  
7 opposite has occurred and the problem has at least  
8 persisted and has gotten worse.

9           So my perspective here is that it is entirely  
10 within the range of this Commission over time, when we can  
11 do that -- and we're talking about a little later -- to ask  
12 the question "is RBRVS still, at this point in time, the  
13 best model for physician payment?" To examine what was  
14 intended at the time, some nearly 30 years ago, ask if that  
15 has occurred and if it has not, why not? And begin to look  
16 at potential alternatives.

17           We won't get to it this year, but my hope is that  
18 we will get to it -- or something like it -- next year.

19           So with that, Julie and Kevin, thank you very  
20 much for your work and we are going to move ahead. We are  
21 about 20 minutes behind but I think we'll be able to catch  
22 up okay.

1 [Pause.]

2 DR. CROSSON: Okay. We have had a number of  
3 comments from Commissioners and others, interest on the  
4 Hill, for example, for some time about the growing  
5 development of telehealth and in all of its manifestations  
6 and ramifications. So this is going to be our first formal  
7 look at that, and I think it is going to be primarily  
8 informational but should help us think about where we want  
9 to go in the future.

10 And we have the other Zach.

11 [Laughter.]

12 DR. CROSSON: Zach Number 2. Amy, Ariel, and  
13 Jeff playing clean-up or something, backup in the back.

14 So who is going to begin?

15 MR. GAUMER: I will.

16 DR. CROSSON: Zach, take it away.

17 MR. GAUMER: Okay. Well, good afternoon. In  
18 this last session of the day, we're going to talk about  
19 telehealth, as Jay just said. Many of you have expressed  
20 interest in this topic within the last year, and we have  
21 also seen an increase in congressional interest. In the  
22 last couple of years, there has been an increase in the use

1 of telehealth services across a variety of payers. Some  
2 believe this service may provide opportunities to expand  
3 access and convenience of care, improve quality of care and  
4 outcomes, and reduce the costs of care.

5           The goal today is to provide you with a  
6 foundational knowledge of telehealth services and to gather  
7 your guidance for further analysis. We will describe how  
8 telehealth services are defined, what telehealth services  
9 Medicare covers and their utilization. We will describe  
10 the extent to which telehealth services are being used in  
11 the non-Medicare setting and identify some general barriers  
12 to telehealth expansion. We will also describe to date  
13 what we know about the efficacy of telehealth services, and  
14 finally, to aid your discussion, we have a few questions  
15 for your consideration.

16           There are various types of telehealth services in  
17 operation today. The American Telemedicine Association  
18 defines telehealth very broadly, as you can see on the  
19 slide above. What we have found is that telehealth  
20 services include an assortment of combinations of services,  
21 modalities, and technologies.

22           The category on the slide above that may require

1 a little explanation is the modality circle. The ATA  
2 identifies four modalities or delivery mechanisms. These  
3 include hard-wired networks linking facilities within  
4 health systems, point-to-point connections which use  
5 external networks to link providers and patients,  
6 monitoring centers which link providers directly to many  
7 patients at once, and free-flowing Web-based communication.

8           To create a telehealth program, one might  
9 identify what service will be provided to patients, then  
10 what modality, and then what technology will be used to  
11 deliver the service.

12           For example, we have observed several programs  
13 where ICU services are delivered using an established  
14 telecommunications network within a hospital system, and  
15 the technology being used is two-way video. By contrast,  
16 other programs deliver basic primary care services using  
17 external networks, or the point-to-point modality, through  
18 basic technology such as the telephone, smartphones, e-  
19 mail, and text.

20 The key point here is that telehealth comes in many shapes  
21 and sizes.

22           Medicare currently covers telehealth services

1 under three different areas of the program. Under the fee  
2 schedule for physicians and other health professionals,  
3 Medicare covers a limited set of telehealth services on a  
4 fee-for-service basis.

5 This coverage began in 2001, with passage of the  
6 Balanced Budget Act, and has evolved in several ways since.

7 The fee schedule currently covers telehealth  
8 services if they originate in rural areas or at one of  
9 several different types of facilities. The beneficiary's  
10 home is not a permitted originating site. There are no  
11 restrictions on the location of the distant site, which are  
12 defined as where the consulting clinician is located.

13 Payment is based on the site. Originating sites  
14 receive a flat facility fee payment of roughly \$25 for each  
15 visit. Distant sites receive 100 percent of the fee  
16 schedule amount. Medicare permits two specific types of  
17 technologies, two-way video, and only in isolated areas  
18 what is called store-and-forward technology.

19 CMS largely determines which fee schedule service  
20 codes are covered as telehealth services. These currently  
21 include general services like E&M visits, or general well  
22 visits, and more specific services like psychotherapy. And

1 these are listed in the mailing materials as well.

2 Telehealth is --

3 DR. CROSSON: So, Zach, the point here is that in  
4 terms of modalities compared with the broad category of  
5 telehealth, the covered modality is quite a small segment  
6 of all the potential telehealth modalities?

7 MR. GAUMER: That's correct.

8 DR. CROSSON: At the moment.

9 MR. GAUMER: Mm-hmm. Correct.

10 Telehealth is also permitted under the Medicare  
11 Advantage program, where plans have the flexibility to  
12 provide any type of telehealth services they choose, but  
13 they are currently considered extra benefits and therefore  
14 not included in plan's BID amounts.

15

16 Finally, telehealth services are also included as  
17 a part of several Medicare demonstration programs and in  
18 the proposed Next Generation ACO program. As a part of  
19 these programs, the fee schedule rules can be waived, and  
20 providers can receive fee schedule payments for the  
21 telehealth services they provide.

22 Okay. In general, there is very little use of

1 telehealth services in Medicare, but there has been growth  
2 in recent years. In 2014, about 68,000 beneficiaries used  
3 telehealth services, and that's about .2 percent of the  
4 population, the Medicare population. That year, there were  
5 approximately 175,000 telehealth visits to distant sites.  
6 However, since 2008, telehealth use increased rapidly,  
7 growing more than 500 percent per Part B beneficiary. In  
8 addition, overall spending on telehealth services is very  
9 low, at only \$14 million in 2014. And the key point here  
10 is that despite the recent growth, telehealth remains a  
11 very, very small part of the program.

12           Now we want to shift to giving you some  
13 information about the types of facilities and beneficiaries  
14 that are using telehealth under Medicare.

15           The most common types of telehealth services  
16 provided in 2014 were for evaluation and management,  
17 psychiatric visits, and hospital consultations. Physician  
18 offices were the most common type of facility associated  
19 with telehealth visits. This was true for both originating  
20 and distant sites, but distant sites include a bit of a  
21 broader mix of facilities types.

22           Physicians, nurse practitioners, and

1 psychologists were the most common type of clinician  
2 associated with telehealth. We also classified several  
3 types of clinicians into the behavioral health physicians  
4 and found that many visits involved a behavioral health  
5 clinician. The combination of behavioral health clinicians  
6 and E&M services being common suggests that behavioral  
7 health clinicians are also providing E&M services.

8           Telehealth visits occurred in all 50 states and  
9 the District of Columbia, but Texas, Missouri and Iowa  
10 accounted for the largest share of visits.

11           The beneficiaries using telehealth services were  
12 younger, disabled, and reside in both urban and rural  
13 locations.

14           And as you can see on the left side of the slide,  
15 62 percent of telehealth visits were for beneficiaries that  
16 were below the age of 65. In the middle of the slide, you  
17 can see that 61 percent of beneficiaries were eligible for  
18 Medicare through disability. By contrast, about 17 percent  
19 of all Part B enrollees were under age 65 and disabled.

20           In addition, on the right side of the slide, you  
21 can see that 63 percent of beneficiaries were rural and 37  
22 percent were urban. Given that Medicare does not permit

1 telehealth in urban locations, the finding that 37 percent  
2 were urban may suggest that some of the claims are  
3 associated with either CMS demonstration programs, which do  
4 appear in the claims, or these claims could reflect  
5 inappropriate use of these services.

6 Overall, we identified nearly 85,000 telehealth  
7 visits for urban beneficiaries, and out of this pool,  
8 44,000 visits had a distant site claim but not a  
9 corresponding originating site claim. And this may suggest  
10 that either folks are receiving care at home and not  
11 billing for it or there's some kind of inappropriate  
12 billing going on.

13 And now Amy will take you through telehealth that  
14 occurs on the outside of the Medicare program.

15 MS. PHILLIPS: Thank you, Zach.

16 Private insurers, employers, the VA, and  
17 technology vendors have demonstrated interest in expanding  
18 the use of telehealth services in recent years. Most of  
19 what we have been able to identify in our research up to  
20 this point is in the non-Medicare setting, focuses on basic  
21 provider visits as opposed to telemonitoring and other  
22 telehealth services.

1           Many large insurance companies have been offering  
2 telehealth services in the form of basic provider visits  
3 via telephone or two-way video to their members. Some  
4 large insurers require members to share in a significant  
5 portion of the cost of this service when provided through a  
6 telehealth vendor. Therefore, while telehealth is made  
7 available to some plan members, the majority of the cost of  
8 this service appears to be incurred by the member rather  
9 than the insurer. We believe there is variation from this  
10 for integrated health systems and other major employers.

11           Employers have also accelerated their use of  
12 telehealth services to reduce the cost of providing health  
13 care to their employees. In Towers Watson's survey of  
14 employers, they found that 38 percent of employers offered  
15 telemedicine as a part of their insurance benefit coverage  
16 in 2015, and they also found that 74 percent of employers  
17 plan to offer telehealth to employees in 2016. Looking at  
18 the nation's largest employer, WalMart, we see that they  
19 have implemented telehealth via their in-store health  
20 clinics that have been outfitted with video stations to  
21 enable their employees and store customers to conduct  
22 virtual doctor and specialist visits via two-way

1 videoconferencing.

2           Expansion had not been limited to the private  
3 insurance market. The VA has been experimenting with  
4 telehealth programs for over a decade. In fiscal year  
5 2014, VA's telehealth programs served more than 690,000  
6 veterans through more than 2 million online visits, with  
7 approximately 55 percent of these visits to veterans living  
8 in rural areas. We've seen the number of telehealth  
9 technology vendors also rapidly increase from 69 different  
10 vendors to 85 in 2015 alone, an increase of 23 percent.

11           Despite all of this expansion of telehealth,  
12 stakeholders have noted three particular barriers. Strict  
13 state-level medical licensure rules are a significant  
14 barrier to physicians and nurses who aim to operate  
15 telehealth across state lines. Clinicians must be licensed  
16 in every state in which they intend to practice, and each  
17 state has its own licensure requirements that typically do  
18 not permit partial or temporary licensure.

19           The VA also identifies training clinical staff  
20 and patients to use the technology and to manage data  
21 generated by telemonitoring services as both time consuming  
22 and costly.

1           Lastly, some stakeholders identify the lack of  
2 widespread broadband Internet access as a significant  
3 barrier to the growth of telehealth services.

4           The Federal Communications Commission reported  
5 that as of December 31st, 2013, 55 million Americans lacked  
6 access to high-speed Internet broadband services, which  
7 includes 53 percent of the rural population.

8           To date, evaluations of the efficacy of  
9 telehealth services to improve access and convenience for  
10 patients, improve the quality of care and patient outcomes,  
11 and reduce costs have shown mixed results. Existing  
12 research largely focuses on specific types of telehealth  
13 technology serving chronically ill populations, as opposed  
14 to telehealth programs that use various types of technology  
15 and focus on broader segments of a population.

16           In order to understand how telehealth programs or  
17 services can prove their efficacy, we have focused on three  
18 domains in which telehealth can have an impact on health  
19 care: by improving access and convenience, improving the  
20 quality of care and patient outcomes, and by reducing  
21 costs.

22           Telehealth services appear to improve access to

1 health care and convenience for the patients who use them.  
2 Telehealth is used by a number of organizations to extend  
3 care into rural areas. For example, some health systems  
4 use telehealth to extend the reach of their networks of  
5 hospitals to more isolated areas. To a lesser degree,  
6 telehealth has also been used to extend care into urban  
7 areas for chronically ill patients who are relatively  
8 isolated, as seen in several of the CMS demonstrations.

9           In addition, telehealth vendors, such as Teladoc  
10 and American Well, are modeled on the concept of creating  
11 convenience for patients by providing care outside of  
12 traditional settings at traditional and untraditional  
13 times. Evidence shows that patients appreciate the access  
14 and convenience these services offer, such as not having to  
15 leave work or receiving care in the middle of the night.

16           Research evaluating the efficacy of telehealth  
17 services or programs to improve the quality of care and  
18 outcomes have shown mixed results. For example, a study  
19 concluded that the use of telemonitoring as a part of a  
20 larger care management program for Medicare beneficiaries  
21 with congestive heart failure was associated with  
22 improvements in mortality rates of about 3 percent. By

1 contrast, a different study found that mortality rates were  
2 higher for patients over age 60 with multiple health  
3 problems that received only telemonitoring. This author  
4 found that mortality was higher at a rate of 14.7 percent  
5 for patients that had been in the telemonitoring group as  
6 opposed to the 3.9 percent mortality rate in the control  
7 group.

8           Lastly, this brings up telehealth's ability to  
9 reduce the cost of care, where we again see mixed outcomes  
10 in existing studies. Some research has demonstrated that  
11 telehealth services can reduce costs. For example, the  
12 previously mentioned study on patients with congestive  
13 heart failure also showed improvement in quality of care,  
14 concluded that telemonitoring was associated with spending  
15 reductions of approximately 8 to 13 percent per  
16 beneficiary. However, in a study, another stud, it was  
17 concluded that patients who had telemonitoring did not  
18 differ from similar patients who had not had telemonitoring  
19 in terms of number of subsequent readmissions and the  
20 number of days in the hospital.

21           Our initial research in telehealth services has  
22 provided some foundational information about Medicare

1 coverage and the use of telehealth, as well as a variety of  
2 information about what we know to date about the use of  
3 telehealth outside of the Medicare program and the efficacy  
4 of these services in general terms. Our plan is to  
5 continue our analysis, but we would like to gather your  
6 input on how best to proceed.

7           We have identified a handful of questions to  
8 guide your discussion about the direction of future  
9 analysis on telehealth. We ask what the Commission's goals  
10 are for this service. Are the goals to expand access and  
11 convenience, improve quality, or reduce costs? Or is it  
12 some combination of these goals?

13           In aggregate, the evidence to date about whether  
14 telehealth can attain all three of these goals or other  
15 goals may be perceived as insufficient. Is the existing  
16 evidence stronger for some telehealth services relative to  
17 others, or only in some specific applications as opposed to  
18 broader use?

19           The question of how expanding Medicare's  
20 telehealth coverage would impact program spending was posed  
21 to CBO recently. Their response was that the outcome of  
22 the cost analysis would depend upon whether telehealth was

1 defined as a service that substitutes for existing services  
2 or as a supplement to existing services. Their assumption  
3 is that if it is a substitute, telehealth may result in  
4 savings to the Medicare program. However, if it is a  
5 supplement, telehealth may result in additional programming  
6 costs. We would like to hear your opinion about whether  
7 telehealth is a substitute or a supplement.

8           Your responses to these questions may have  
9 implications for how Medicare pays for telehealth services  
10 and in which circumstances.

11           Thank you for your time. We look forward to your  
12 questions.

13           DR. CROSSON: Thank you very much. This is a  
14 very nice introduction to this area, which I think is of  
15 great interest to us and to others.

16           We're going to do clarifying questions in a  
17 second. I have one, actually. Maybe I should be asking  
18 myself or Mark. But when we're talking about future  
19 analysis and goals, et cetera, are we talking about  
20 telehealth within fee-for-service, medicine only, or  
21 including Medicare Advantage and the way it's being used  
22 and paid for, et cetera, et cetera?

1 DR. MILLER: So I think one -- I mean, there may  
2 be some very fundamental analyses or "what do you know  
3 about" or "could you go out into the private sector and  
4 find out what they're doing" kinds of questions that the  
5 Commission may have that we could pursue.

6 If you enter the discussion of what to do in the  
7 payments systems, our middle name, as it were, you could  
8 think about a path that goes into fee-for-service, but  
9 think of the usual issues in fee-for-service, kind of the  
10 Wild West volume issues, and also define the service, who  
11 can get it, who can do it, those types of things.

12 The other way your thinking could go is, could  
13 you create or allow more open-ended telehealth in certain  
14 payment services? So, if you were to be in a two-sided  
15 risk ACO, you might say, okay, anything goes in telehealth  
16 or in MA, as the case may be.

17 And to your very narrow question, I would say MA  
18 should be included in the conversation.

19 DR. CROSSON: Okay. Clarifying questions.  
20 Starting over here with Cori, Jack.

21 MS. UCCELLO: I think you've already answered  
22 this, but whenever the chapter, I think, make clear that

1 there was a big share of providers on both the originating  
2 site and the distant site who are behavioral health-  
3 related, but just a small share of the services were  
4 psychiatric in nature, it sounds like a big share of that  
5 was in E&M services. So it's still a little confusing to  
6 me why you would have a behavioral health provider on both  
7 sides.

8 MR. GAUMER: Well, I think this is the first time  
9 we've seen the data. We've been looking at it a little  
10 while. Our impression here is that -- and I'll say we  
11 haven't done any kind of conversations with providers that  
12 are actually giving this service or providing a service as  
13 much as we can. But it appears to us as though we have  
14 folks that are being labeled as behavioral health  
15 clinicians, and that category we created makes up  
16 psychiatrists, neuropsychiatrists, psychologists, and a few  
17 smaller specialties, are getting on the two-way video and  
18 essentially providing a behavioral health service. They  
19 may also be providing an E&M service which, except for the  
20 psychologists, are not prohibited from doing.

21 So, especially, I'm imagining if they're coming  
22 from rural areas, this is a possibility where you have one

1 doctor who's providing a couple of different types of  
2 service, but as I said at the beginning, this is not  
3 something that we have confirmed definitively with  
4 providers, and it's something that maybe we need to figure  
5 out.

6 DR. CROSSON: Okay. I had Jack, Rita, and then  
7 Mary. I'm sorry.

8 DR. HOADLEY: So, on slide 3, you had mentioned  
9 one of the services is the off-site imaging, reading the  
10 results by radiologists off site. I didn't see that listed  
11 in what Medicare allows. Is that not allowed by Medicare?

12 MR. WINTER: So we have to look into this more.  
13 If the radiologist doing the read is outside the United  
14 States -- and that often happens -- Medicare will not pay  
15 for that service because they don't pay for services  
16 provided outside the U.S.

17 Now, the question is, if the radiologists is,  
18 let's say, in Texas interpreting an image that was taken in  
19 Oklahoma, could that radiologist bill for the professional  
20 component? And my guess is probably yes, but we need to  
21 look into this more and study Medicare's billing rules in  
22 detail. So we can get back to you on that.

1 DR. HOADLEY: Okay.

2 MR. GAUMER: And just one more thing to add to  
3 that, the reason that this is on here also is that this  
4 store-and-forward technology that's permitted in Hawaii and  
5 Alaska, that could be imaging that's being sent somewhere  
6 else.

7 DR. HOADLEY: Yeah. And I know I've heard that  
8 kind of notion that the images -- that one efficient way to  
9 do images is to have providers in different locations who  
10 can be available at different times of the day or whatever,  
11 and I just didn't know how that worked out here.

12 Since there's a payment on the originating site  
13 as well as the distance site, are they both subject to cost  
14 sharing, the normal cost-sharing rules?

15 MR. GAUMER: So the answer is yes. They're both  
16 paying 20 percent on that.

17 In the last session, there was some conversation  
18 about really low cost sharing for like a \$25 fee, so that  
19 would occur here too. But, according to the rules, they're  
20 both subject.

21 DR. HOADLEY: Right. Okay.

22 And I just wanted to be clear. I think you said

1 this. On the Medicare Advantage plans, those are treated  
2 as -- you said as extra services and therefore not part of  
3 the BID. So, even though Medicare Advantage plans can do a  
4 lot of this, it's because it's not typically a covered  
5 service on the Medicare fee-for-service side, that makes it  
6 an add-on service?

7 MR. GAUMER: That's right. And so the way Carlos  
8 has taught me and others have taught me, it comes out of  
9 the rebate.

10 DR. HOADLEY: Right.

11 MR. GAUMER: Okay.

12 DR. HOADLEY: So, again, when we're thinking  
13 about things that might come up on the MA side, that --

14 DR. MILLER: It's probably what we were thinking.

15 DR. CROSSON: Rita.

16 DR. REDBERG: [Off microphone.]

17 DR. CROSSON: Oh, okay. Was this a passed note,  
18 or was this verbal?

19 Mary.

20 DR. NAYLOR: On slide 11, you talked about -- I  
21 was interested in a chapter, Baker's work, and there were  
22 billing codes. CMS had billing codes in 2013 for

1 monitoring people, and then, all of a sudden, they jumped.  
2 States have adopted some of it, and I am wondering, given  
3 the positive, relatively positive findings, do we have any  
4 sense of why the billing codes were dropped?

5 MS. PHILLIPS: So, yeah, the billing codes were  
6 picked up by Medicaid, and it was part of a CMS  
7 demonstration for Medicare patients.

8 DR. NAYLOR: Yes.

9 MS. PHILLIPS: And CMS determined that the cost  
10 savings weren't big enough for Medicare to pick it up as a  
11 service.

12 DR. NAYLOR: So that 8 to --

13 MS. PHILLIPS: That 8 to 13 percent was before it  
14 was adjusted for the cost of the technology and training,  
15 which then -- and the CMS evaluation of the program became  
16 an insignificant savings.

17 DR. NAYLOR: Great.

18 And, secondly, in the next generation of ACOs,  
19 there is this piece that post-hospital, post-skilled  
20 nursing facility, home visits will not be able to be  
21 covered in the next generation. Any understanding of why  
22 that's the case?

1           MR. GAUMER: I'm not exactly sure, but I do  
2 recall what you're talking about. There is no post-  
3 hospital or post-SNF follow-up visit that is a covered  
4 service typically under telehealth in the home setting.  
5 I'm not exactly sure why, but there's generally -- it seems  
6 to be a reluctance to do home-based telehealth. Yeah.

7           DR. CROSSON: Despite the fact that 62 percent of  
8 the recurrent recipients are disabled; is that right?

9           MR. GAUMER: Yes.

10          DR. CROSSON: So, presumably, these individuals,  
11 many of whom are homebound, need to travel to some site  
12 where they can do videoconferencing with the originating  
13 site; is that right?

14          MR. GAUMER: That's the way it should work. I  
15 mean, that's the way --

16                   [Laughter.]

17          MR. GAUMER: That's the way it works, yeah.  
18 Whether or not there's inappropriate billing happening out  
19 there, that's the way the rules say to do it.

20          DR. CROSSON: Thanks.

21                   Clarifying questions? Kathy and then Bill.

22          MS. BUTO: Is there a concentration of the

1 physicians who do this on the -- particularly on the  
2 originating side but maybe also -- I assume that they go to  
3 certain referral centers on the other side -- and/or the  
4 patients? In other words, do certain patients use this  
5 service a lot, or is it pretty thinly spread just based on  
6 an episodic situation where somebody is, say, following up  
7 on a surgery and needs a consult or something like that?  
8 Do we have a sense of that concentration? Because there's  
9 so few -- I mean, the amount of money is so little, it just  
10 makes me wonder what's going on.

11 MR. GAUMER: So we've done a little thinking  
12 about that. In terms of the beneficiaries, there's 68,000  
13 beneficiaries that use this service, 175,000 visits, so  
14 that's a couple apiece on average.

15 We haven't looked into kind of a frequency of the  
16 top 20 people or anything, but we have done that on the  
17 provider side, and we do see some groupings of providers  
18 that seem to be doing a lot of it.

19 I think we were curious to see what was going on  
20 in the urban setting, and there were some providers that  
21 were serving urban beneficiaries more than others, some in  
22 the thousands-per-year range.

1 MS. BUTO: And you mentioned mental health  
2 providers, physicians and others. I assume mostly others  
3 based on the shortage issue that seemed to be participating  
4 in this.

5 MR. GAUMER: Yeah. The few providers that we  
6 looked at that seemed to be doing a lot of telehealth  
7 seemed to be specializing -- well, I've only seen one  
8 specialist. There is also a couple that are more  
9 generalists. Yeah.

10 DR. CROSSON: Bill.

11 MR. GRADISON: I understand you're going to be  
12 trying to get more information from the VA. When you do,  
13 I'd be very interested to know this. I assume that at both  
14 ends of the call will be VA employees. I have understood  
15 to the extent, if there are examples, that they are non-VA  
16 people, in other words, where they would use this to bring  
17 in people who are not part of their ongoing regular  
18 organization.

19 Thank you.

20 DR. CROSSON: Clarifying questions. More?

21 [No response.]

22 DR. CROSSON: Okay. So we're going to have a

1 discussion now.

2           Why don't we put up slide 13. Here's a set of  
3 questions staff has asked us to focus on. Essentially,  
4 what we're trying to do here is help Mark and the staff to  
5 find future work in the area of telehealth. So we have --  
6 I think Rita and Alice have asked to lead off. We'll start  
7 with Rita.

8           DR. REDBERG: So this was an excellent chapter  
9 and I think gave us a good overview of telehealth, which I  
10 think one would conclude is promising, needs more data, and  
11 is a lot of different things. I mean, the list is very  
12 long, and appropriately, because I think a lot of things do  
13 fall under telehealth.

14           And that the current data that we have right now,  
15 I would say is mixed. Probably because it's mixed and  
16 probably because it really depends on how you are using it,  
17 like you said, is it replacing current services, is it  
18 supplemental to current services, you know, and exactly  
19 what it is.

20           In our sort of overall grant picture of going  
21 towards alternative payment models and MIPS and what was  
22 mandated in MACRA, it seems to me that it doesn't make

1 sense to start talking about fee-for-service approach to  
2 telehealth because I don't think we could figure out all of  
3 this, what works and what doesn't. I think the things that  
4 do work are going to be more efficient, and then large  
5 organizations will want to use them. And the things that  
6 don't -- and so that our approach should stay within the  
7 bundled payment or ACO, what's listed here at the end and I  
8 think what Mark was talking about a little bit earlier,  
9 because there are potentials for efficiency, and there are  
10 also potentials for a lot of inefficiency. And I don't  
11 think we're in the business of sorting that out. I think  
12 we pay, and so we are paying for efficient care, and  
13 telehealth increases your efficiency. Then it would be  
14 paid for. So we can liberalize, like you said. It can be  
15 used, but I don't think we want to get into costing it out  
16 and into a really complicated formula that surely we would  
17 come to regret.

18 DR. CROSSON: So let me see if I can understand  
19 what you are saying. Are you saying you think that  
20 telehealth, as defined here, which is fairly narrow  
21 definition at the moment -- telehealth, as defined in the  
22 fee-for-service arena, is likely to represent additional

1 services? Are you saying that, or what?

2 DR. REDBERG: I would say, currently, what I can  
3 -- in the use of telehealth, I think it is additional  
4 services, but I think that's because it's right now we're  
5 operating more in a fee-for-service arena. But I think it  
6 has potential to replace services or be used instead of  
7 coming back into a doctor, you can talk --

8 DR. CROSSON: In a different payment arrangement.

9 DR. REDBERG: Right.

10 But I just think it makes a lot more sense to  
11 think about it in terms of an ACO model or a capitated,  
12 like a primary care payment. It could include -- if the  
13 practice wishes to use telehealth in whatever way they want  
14 to use it --

15 DR. CROSSON: Right. The broader definition of  
16 telehealth.

17 DR. REDBERG: Right. Then we could broaden the  
18 definition but not separate it out for payment. Does that  
19 make sense?

20 DR. CROSSON: It does. I just want to be clear  
21 what I thought you were saying.

22 First, Alice.

1 DR. COOMBS: I think it's wonderful. You guys  
2 did a great job.

3 I was thinking along the lines of the progression  
4 for critical care as an example of what they did in  
5 critical care. Initially, when you had a critical care  
6 patient, there were certain things included within this  
7 time frame to bill for. It's the minimum of 30 minutes,  
8 but included in that could be the discussion with a family,  
9 a family meeting, discussion of diagnosis and prognosis.

10 And so I was looking at this as a substitute  
11 specifically in the context of -- especially in that  
12 context, but also looking at the psych and mental health  
13 issues, I think that particularly can actually enhance  
14 outcomes, especially when you have patients with thought  
15 disorders and they need serial follow-ups.

16 In view of that, I don't know if we can do this,  
17 but certainly, some of the fees that we talked about  
18 earlier -- transitional care management, chronic care  
19 management -- if we could incorporate some elements of  
20 telemedicine within that capacity, especially diabetic  
21 management -- there are studies from England that talks  
22 about decreasing admission rates for COPD 50 percent, and

1 so they may be ahead of us in this spectrum in terms of  
2 being able to implement early on for the high-cost  
3 diagnosis, COPD, congestive heart failure, diabetes, and  
4 utilizing assistance, education, and having a real, real  
5 titratable effect, impact on patients.

6           There's someone who has a website called Patients  
7 Like Me, where the patients log in, and they have a  
8 capacity to -- you've probably seen it. They do some  
9 amazing things. And then there's another program where  
10 they give apps to follow patients along, and the patients  
11 can be keyed in for taking the antiretrovirals.

12           I think there's a lot of innovation here that  
13 could actually lead to better outcomes, better quality, and  
14 definitely improved costs. Why the data doesn't support it  
15 yet, I think there's probably so many confounding variables  
16 in some of the stuff that we've read.

17           The other piece of it is the regulatory barriers,  
18 and I was thinking about the VA. That you can work at any  
19 VA as a physician. If you work in Massachusetts, you can  
20 go anywhere, and so wouldn't it be a wonderful thing if  
21 there was some kind of regulatory relief for interstate  
22 practice. That's where we could probably make a difference

1 with that piece because it is burdensome to try to be able  
2 to practice from state to state. And I know Sue and I were  
3 talking about this earlier.

4 I think the other piece of this is  
5 rehabilitation. You can actually to telerehab, and  
6 wouldn't that be wonderful to cut the cost of some of the  
7 things that we're doing based on the telehealth? I think  
8 that's interesting.

9 The home health piece, I think is definitely a  
10 substitute, looking at patients on a daily basis. Those  
11 are some areas where I think we could be innovative, and we  
12 could take this to another level. There's a lot of  
13 opportunity here.

14 DR. CROSSON: So, Alice, one of the examples you  
15 mentioned, of course, was the UK, and one of the  
16 characteristics there is that, of course, it's a different  
17 payment system again. Some of the numbers you quoted, I  
18 believe absolutely, but I think one would argue that  
19 they're a consequence of a different payment system.

20 At least some of what you said, I heard was  
21 echoing what Rita had said and what I think Mark is  
22 thinking as well, that we at least have to divide this

1 question up into what can be done or should be done within  
2 the fee-for-service payment system, and then what can and  
3 should be done in other payment systems which contain  
4 incentives, both for improved quality and perhaps lower  
5 cost as well.

6 DR. COOMBS: So, for the fee-for-service, we've  
7 always talked about site-neutral kind of payments, from  
8 SNFs to IRFs to the LTCHs. This could be another option  
9 for rehab patients who are simplistic and straightforward.  
10 I mean, certainly.

11 DR. CROSSON: Okay. Just on the other question  
12 of the state licensure, there is a question that I know has  
13 been discussed at the National Federation of Medical Boards  
14 about national licensure. My sense is that that is not  
15 within our purview to work on?

16

17 DR. MILLER: It would be a reach, right. I mean,  
18 essentially, you would be saying that federal law or at  
19 least federal laws as it relates to Medicare preempts state  
20 law, and that's a fairly big reach.

21 And a lot of the underlying structure in Medicare  
22 kind of works like this. Medicare will pay for a

1 provider's visit to do these things as long as the state  
2 has licensed that provider to do that thing as opposed to  
3 the federal government saying, "Here's what that provider  
4 can do." So it would be decidedly going at the  
5 underpinnings and taking on a really big issue that's  
6 basically state rights.

7 DR. CROSSON: Has MedPAC ever testified at the  
8 Supreme Court?

9 DR. MILLER: No.

10 [Laughter.]

11 DR. MILLER: And we're not looking to.

12 DR. CROSSON: Okay. Where are we? So let's go  
13 down this way. Kathy, were you wiggling your fingers?

14 MS. BUTO: I've got to just pick up on something  
15 Mark said because it's sticking in my mind.

16 You know, although you're right about deferring  
17 to state licensing, all of the conditions of participation  
18 have stuff in there about a hospital has to have this many  
19 things and have these health and safety requirements, and,  
20 oh, by the way, you've got to have certified this and that  
21 and a license to -- dietician and so on.

22 So, depending on whether -- and I don't think

1 there are conditions that go with telemedicine, but if  
2 there were criteria for who a participating telemedicine  
3 facility would be, it seems to me you could add stuff about  
4 who's licensed to do it or who can actually be providing  
5 that service.

6 Are there conditions or anything like that?

7 DR. MILLER: I don't think so.

8 MS. BUTO: I'm doubting that.

9 MR. GAUMER: There isn't a lot that I know of.  
10 There's a list of types of originating sites that are  
11 permissible, but it's not linking.

12 MS. BUTO: But, on the other hand, not the  
13 consulting site.

14 MR. GAUMER: No. That's pretty wide open.

15 MS. BUTO: Yeah.

16 DR. CROSSON: Okay. So, again, we're focusing on  
17 where we would like the staff to be going, and I've got  
18 Craig and then David.

19 DR. SAMITT: I think this is a crucial topic that  
20 requires further exploration.

21 We often will talk about the fact that we should  
22 be looking toward the private market and how much they are

1 making a play into innovative approaches, and I think what  
2 you would find is organizations that are aligned around  
3 population health financially are very much interested in  
4 investing in the power of telehealth, and it's actually  
5 both a substitute and a supplement.

6           The reality is that if there is a more convenient  
7 alternative for a beneficiary to get a service, then they  
8 should not come into an office setting. They should  
9 actually have access to that at home.

10           And the supplement is if there would be a gap in  
11 care because the beneficiary wouldn't be able to get to a  
12 clinical environment, telemonitoring and the avoidance of  
13 an ER visit or an emergency visit is a supplemental service  
14 that otherwise would not have occurred.

15           So I think we somehow need to find a way to  
16 loosen the restrictions here. I know the reimbursement  
17 challenges, but it feels like we're going completely  
18 against the grain of other industries.

19           As I read the chapter, it's kind of like --  
20 comparing to other industries, it's as if the old way was  
21 we would get in a car to go to Barnes & Noble to buy a  
22 book. Now the new way is we have to get in a car to go to

1 an approved Amazon.com facility to go online to order a  
2 book as opposed to going direct. So this makes no sense to  
3 me. If we should be connecting directly and finding a way  
4 to reimburse that in a manner that's going to reduce the  
5 cost of care, all the goals are relevant: improve access,  
6 convenience for the beneficiaries, and reduce costs. We  
7 need to find a way to understand how we can work within  
8 either the ACO world where we release restrictions in the  
9 ACO world because that's what ACOs will want to do or some  
10 other way within the fee-for-service chassis to allow this  
11 innovation to happen.

12 DR. MILLER: And I think some of my comments,  
13 when I was asked, go in that direction. Think about your  
14 conversation on the primary care discussion and, again, I  
15 think there's a whole pile of issues there that are going  
16 to look different the next time we come back.

17 But let's say you got to a resting point there.  
18 You could certainly say, within that capitated payment --

19 DR. SAMITT: Of course. [off microphone.]

20 DR. CROSSON: David.

21 DR. NERENZ: Just a couple of things. One now  
22 plays of Craig's example about the Barnes and Noble.

1           It seems like we ought to look for opportunities  
2 for effective substitutes. The analogy might be an office  
3 visit where if the current state is the patient goes to the  
4 office and then has to sit in the waiting room and has to  
5 be checked in by a receptionist, taken into a room,  
6 temperature taken, put a gown on, all of that stuff -- much  
7 of that cost is taken away if it's a televisit. And  
8 presumably then the payment for Medicare for the tele-  
9 version of that could be less if the medical content is  
10 essentially the same.

11           Dermatology might be a good example of that  
12 where, rather than going into an office to have a rash  
13 looked at you just do it on a screen. But the essential  
14 work would seem to get done at less cost and therefore  
15 could be reimbursed at a lower rate. So that would just  
16 seem like an area of opportunity to look for.

17           Then the second thing is a question just on the  
18 state license thing. This is really a question, not a  
19 suggestion. Two examples, and let's use psychiatry now as  
20 the example. Let's say currently, a patient who lives in  
21 Ohio drives across the state line, sees a psychiatrist in  
22 Michigan in a traditional office visit. The psychiatrist

1 is licensed in Michigan and that care is delivered in  
2 Michigan. That's now.

3 Okay, so now in the telemedicine thing, the  
4 person stays in his or her home, the video connection is in  
5 their home. The physician is in Michigan, the interaction  
6 is exactly the same.

7 Is the problem that that care is now deemed to  
8 have been given in Ohio? Is that the problem?

9 DR. CROSSON: That's correct. That's correct.

10 DR. NERENZ: That seems odd to me. Is that a  
11 matter of some -- I mean, maybe nobody else thinks it's  
12 odd. I think it's odd.

13 DR. CROSSON: My understanding is, at least from  
14 discussions in California, is that's how the state  
15 licensing boards define care. It's delivered within their  
16 border. The patient --

17 DR. NERENZ: I guess I'm trying to split the  
18 hair. Does it depend on the physical location of the  
19 provider at the instant or the patient?

20 DR. CROSSON: It's where the patient is.

21 DR. NERENZ: Well, could that just be changed? I  
22 mean, who makes that rule?

1 DR. CROSSON: Each state, one at a time.

2 DR. MILLER: Each state.

3 DR. NERENZ: But they're all the same? Or all  
4 they not all the same?

5 DR. MILLER: I imagine there's some variation.

6 DR. NERENZ: Okay.

7 DR. CROSSON: And there are activities going on  
8 within states led by certain physicians in certain  
9 specialties and opposed by others to try to loosen that --

10 DR. NERENZ: I understand. Okay.

11 So that if that was going to change, it would  
12 change 50 decision units at a time.

13 DR. CROSSON: As things are currently set up,  
14 yes.

15 DR. NERENZ: Okay.

16 DR. MILLER: This gets into some of those same  
17 issues that there's the fights between physicians and nurse  
18 practitioners and -- it's all of that crowd. It's that  
19 same issue and sort of protecting turf, that type of thing.

20 MR. GRADISON: It never occurred to me that my  
21 doctor who has offices in Maryland and D.C. might be doing  
22 something wrong if he calls me in Northern Virginia where I

1 live and gives me some advice, the basis of which he -- or  
2 who phones in a prescription to a pharmacy which is also  
3 not in Maryland or D.C. But maybe that's a quaint --

4 DR. CROSSON: Bill, I don't know the answer to  
5 that because I don't know your physician. But I am  
6 familiar with how Kaiser Permanente works in this area.  
7 And to my knowledge, it's a little dated obviously, but to  
8 my knowledge the vast majority of physicians are licensed  
9 in all three jurisdictions for that reason. And that takes  
10 a lot of time and....

11 MR. GRADISON: Yes. [off microphone.]

12 DR. CROSSON: Jack.

13 DR. HOADLEY: I guess I have two thoughts. One  
14 goes back to the Medicare Advantage question. I guess I'm  
15 interested to know if there's any downside to changing the  
16 rules so it would give the MA plans more flexibility to  
17 provide these services within the benefit as opposed to as  
18 extra benefits? Or whether there's impediment, on the  
19 other side, to the way it works now? Maybe that doesn't  
20 really limit what an MA plan does in terms of implementing  
21 telehealth.

22 So if there's no problem to be solved, we don't

1 need to change the rules. But if that's becoming an  
2 impediment to MA plans, then that's something we should  
3 look at. And is there any other downside on that?

4 DR. CROSSON: My guess would be if you've seen  
5 one, you've seen one. It relates to the payment rates and  
6 the premium structure and the like.

7 DR. HOADLEY: Yes. And to the extent that plans  
8 are in different situations relative to rebate dollars and  
9 all those other kinds of things.

10 I mean, the other thing that seems like -- you  
11 know, we can talk about the things you can do with  
12 telehealth, and we all have many examples of those. The  
13 point, I think, that we heard in the discussion was that  
14 right now it sounds like CBO would score any kind of  
15 attempt to expand the ability to use telehealth quite  
16 possibly as a cost. And I think the challenge should be to  
17 think about -- you know, we talked about substitution  
18 versus supplement.

19 Are there means to broaden the ability to use it  
20 that would look at scorable at least as neutral -- not  
21 necessarily as savings -- but sort of what are the criteria  
22 that make it looks like it costs? Because as soon as you

1 say well, I can do that rehab follow-up in the home, well  
2 now that becomes in addition to what I already did. I  
3 already had the patient in the home health or in the rehab  
4 setting or in an in-person kind of rehab visits. And now  
5 I'm going to be able to bill for three more encounters that  
6 are done via telehealth, via the home, that I never billed  
7 for before.

8           So that seems to be why it often looks like it's  
9 a potential add-on to services. And I think if we can  
10 think about ways that you could allow more use of these  
11 services where there are useful services without it ending  
12 up creating the means to just add on more services, and  
13 thus more costs, I think that's the challenge.

14           Otherwise, you go to the route of saying well,  
15 let's do this within the ACOs or within the primary care  
16 capitation we were talking about, or things like that,  
17 where you don't have to deal with those obstacles.

18           DR. CROSSON: Or both. I think this is the core  
19 question here. Because we've heard a lot of support for  
20 the notion of the utility of this alternative payment  
21 models, or whatever you want to call it, including MA and  
22 ACOs and the like. And that seems patently obvious on the

1 face of it, as well as there being an experience base, as  
2 Craig said, in the commercial world now for that as well as  
3 in the MA world.

4           The question, I think here for the staff going  
5 forward, is is there an answer to your question? And what  
6 would it take? How would you arrange it in the pure fee-  
7 for-service environment to provide flexibility for care  
8 delivery in such a way that it did not create incentives  
9 for overuse and extra billing and the like? What would  
10 that look like?

11           And I think you've hit it right on the head.

12           MS. BUTO: It strikes me that maybe we could  
13 think about that because there are some services, like  
14 reading radiology images, that you're not going to overdo  
15 the utilization on. You'll either read them remotely using  
16 this technology or you'll do them some other way.

17           It just seems to me there might be services that  
18 are not now currently covered that you wouldn't be able to  
19 easily game. But it would sure make life easier for both  
20 the originating physician or patient and the receiving.

21           And then on MA, it strikes me that I don't see  
22 why telehealth should be paid out of the rebate if -- again

1 it falls in these categories of things that you're clearly  
2 substituting, you're going to use instead of an in-person  
3 visit to discuss an image or some other things that we  
4 might be able to identify. Maybe even mental health visits  
5 that occur with this frequency, that kind of thing, that it  
6 clearly is going to be a substitute.

7           So I don't think it's something we can't look at  
8 or ask the Secretary or suggest that the Secretary look at  
9 and try to identify, maybe using some examples. Get some  
10 comment on it, areas where it clearly makes sense, it's  
11 going to be a substitute, not really subject to abuse. I'm  
12 sure they can come up with a list.

13           DR. CROSSON: Well, in the context of again risk-  
14 bearing, or Medicare Advantage, abuse would look very  
15 different. Alice.

16           DR. COOMBS: I just wanted to add one other thing  
17 and that is when you have disabled patients who have to  
18 come in from home, sometimes there's an ambulance ride  
19 that's involved. So there's another situation where you  
20 have added costs just for the transportation alone.

21           DR. CROSSON: Well, yeah, that's why I was  
22 wondering before about the current state of affairs with

1 respect to beneficiaries who qualify under disability.  
2 Obviously, then they are not all homebound but some are  
3 homebound, perhaps a large number are homebound or are  
4 homebound partially and require extraordinary or expensive  
5 transportation requirements in order to get to the  
6 telehealth site, which seems to be counterproductive.

7 DR. HOADLEY: Or just to get to the regular site  
8 of care.

9 DR. CROSSON: Right, right.

10 DR. HOADLEY: It's not necessarily even  
11 substituting for home originating location but say okay, if  
12 they've got to go in to have something monitored on a  
13 regular service and it could be done remotely in that kind  
14 of situation.

15 DR. CROSSON: Okay, well I think this has been a  
16 preliminary but a good discussion. I think we have  
17 potentially two streams of work here. One has to do with  
18 telehealth as defined or as broadened in the area of  
19 alternative payment models, including existing ones and  
20 potentially others.

21 And then the second one, which Jack brought up  
22 and others have alluded to, is the question of -- Kathy

1 most recently -- is the question of perhaps in a narrower  
2 way, within pure fee-for-service payment, what could be  
3 thought of and designed that would not only not be scored  
4 negatively but actually improve quality and potentially  
5 improve the beneficiary care experience and maybe even save  
6 money or at least be cost neutral?

7           So maybe that's a tall order but I think those  
8 are the questions that I've heard so far.

9           So I think we've come to the end of today's  
10 session. Thank you very much for the presentation.

11           We have now reached the point in time where we  
12 have an opportunity for public comment. So if there are  
13 members of the audience who would like to make a public  
14 comment, please come forward to the microphone so we can  
15 see how many public comments we have at the moment.

16           [Pause.]

17           DR. CROSSON: So it looks like we have an  
18 enthusiastic crowd here. Let me just make a couple of  
19 points, and I think you may be aware of this but it's my  
20 job to make them anyway.

21           The public comment session is not the only or the  
22 best way to provide feedback to the staff and, through the

1 staff, to the Commission. There are online mechanisms, as  
2 well as through Mark and Jim and his staff, making  
3 appointments, and other ways of communicating, both in  
4 writing and in person with the MedPAC staff.

5 Having said that, this is a good opportunity so  
6 when you come to the microphone please give us your name as  
7 well as an organizational affiliation. We would ask you to  
8 limit your comments to two minutes.

9 I will turn my microphone off as you begin  
10 speaking and when the light comes back on, that's two  
11 minutes. Thank you.

12 MR. ZAMAN: Good afternoon, and thank you to the  
13 Commission for its work on these issues.

14 My name is Shahid Zaman and I'm commenting on  
15 behalf of America's Essential Hospitals.

16 America's Essential Hospitals is a membership  
17 association of 275 hospitals and health systems dedicated  
18 to high quality care for all, treating a disproportionate  
19 share of low-income and uninsured patients.

20 Our comments today focus on the Commission's  
21 discussion around telehealth and Part B drugs.

22 First, we appreciate the Commission exploring the

1 rapidly expanding area of telehealth. Telehealth services  
2 at essential hospitals have helped to increase access and  
3 improve health outcomes for our patients in both rural and  
4 urban areas.

5 Current Medicare reimbursement for telehealth  
6 services is limited in scope, both in terms of the types of  
7 services that are reimbursed and also in terms of  
8 geographical limitations on the originating site.

9 Therefore, the Commission should consider ways in  
10 which telehealth services can be appropriately reimbursed  
11 to expand access for all patients, not just those in rural  
12 communities.

13 With regard to the Commission's discussion on  
14 Part B drugs and the 340B program, we would like to  
15 emphasize the important role the 340B program has played in  
16 enabling essential hospitals to deliver coordinated cutting  
17 edge care to vulnerable patients. In the words of  
18 Congress, the 340B program was meant to enable providers to  
19 stretch scarce federal resources as far as possible,  
20 reaching more eligible patients and providing more  
21 comprehensive services.

22 Essential hospitals, which operate on an

1 aggregate negative 3 percent margin compared to positive 6  
2 percent for all hospitals nationwide, have been able to  
3 harness 340B savings to coordinate care and improve  
4 outcomes for their vulnerable patient populations,  
5 including through initiatives aimed at reducing  
6 readmissions, ensuring medication compliance, and  
7 identifying high risk patients in need of ancillary  
8 services.

9           We would ask that going forward the Commission be  
10 mindful of the invaluable role the 340B program plays in  
11 allowing providers with limited resources to provide high  
12 quality care and wraparound services to patients.

13           We look forward to following the Commission's  
14 work on these issues. Thank you for the opportunity to  
15 provide comment.

16           DR. CROSSON: Remarkably accurate in time. Thank  
17 you very much.

18           [Laughter.]

19           MR. BRANDT: Good afternoon. My name is Derek  
20 Brandt and I'm representing the American Academy of  
21 Neurology as well as the Cognitive Specialty Coalition,  
22 which includes groups such as allergy and asthma, neuro-

1 ophthalmology, rheumatology, infectious diseases,  
2 endocrinology, and collectively we represent about 115,000  
3 physicians.

4           When determining how to ensure access to  
5 evaluation and management services for Medicare  
6 beneficiaries, we continue to urge the Commission to not  
7 focus primarily on specialty designation but rather on the  
8 care being provided to patients.

9           There is no actual primary care services in the  
10 Medicare fee schedule. Our specialities bill the exact  
11 same codes as primary care providers. These evaluation  
12 management codes are for new and returning office visits,  
13 not for primary care services.

14           We agree that there is a crisis in primary care.  
15 But as mentioned a few times during the prior  
16 conversations, our specialties bill the exact same codes  
17 and have similar incomes as a result, and also have  
18 resulting recruiting challenges, as well.

19           Policies like those being discussed by the  
20 Commission pick winners and losers based on specialty  
21 designation that do not reflect the realities of patient  
22 care. The Commission's own data shows tens of millions of

1 Medicare beneficiaries are not relying on primary care  
2 providers for their coordination of care.

3           So who are these patients? There are those with  
4 complex chronic conditions like Alzheimer's, ALS,  
5 Parkinson's, HIV, RA, diabetes, and are some of Medicare's  
6 highest cost, highest need patient base.

7           Yet the Commission continues to focus solely on  
8 primary care. Ultimately, we think it will send a message  
9 to students entering medicine that specialties like ours  
10 ought to be avoided. Why put the extra time and effort  
11 into specializing if the ultimate result is less  
12 reimbursements for treating more complex patients?

13           We urge the Commission to take steps to encourage  
14 fairness by incentivizing face-to-face time for all  
15 physicians that provide 60 percent of their time as  
16 evaluation management services.

17           Thank you so much for your time.

18           DR. CROSSON: Thank you very much.

19           MR. DAVIS: Hello, my name is Jeff Davis with  
20 340B Health. We represent hospitals participating in the  
21 340B program.

22           The Commission had a great conversation earlier

1 today about 340B and I just wanted to briefly comment on  
2 two points that were raised earlier.

3           The first was discussion of unintended  
4 consequences that could occur if Medicare reduced payments  
5 to 340B hospitals. We just wanted to make the Commission  
6 aware that we do have information, this has been documented  
7 by researchers in multiple reports, on how 340B DSH  
8 hospitals differ from non-340B hospitals. We know that  
9 340B DSH hospitals treat nearly twice as many low income  
10 patients. They provide significantly more and a  
11 disproportionate amount of uncompensated care. They  
12 provide more unprofitable and specialized public health  
13 services. And importantly, as I think was mentioned  
14 earlier, they have lower outpatient financial margins than  
15 non-340B hospitals.

16           So all of this, taken together, really suggests  
17 that if you reduce the reimbursement to 340B hospitals and  
18 therefore reduce the amount of the 340B benefit, you will  
19 be really having a negative impact on the low income  
20 patients that are treated by these safety net hospitals.

21           So we think that this is important information  
22 for the Commission to consider before making any

1 recommendations in this area.

2           The second issue that was mentioned earlier was  
3 discussion of whether Medicare should be subsidizing safety  
4 net hospitals. We at 340B Health believe that whether 340B  
5 savings should be shared with Medicare beneficiaries should  
6 be viewed as a separate issue from whether those savings  
7 should be shared with the Medicare program.

8           We'd also like to point out that 340B is a Public  
9 Health Service program. It is administered by the Health  
10 Resources and Services Administration, not Medicare. And  
11 Congress established 340B, as was mentioned earlier, with  
12 the goal of stretching the scarce resources of safety net  
13 providers so that they could provide more services and  
14 reach more patients.

15           The mechanism that Congress chose to enable this  
16 goal was for the safety net providers to buy drugs at  
17 reduced rates but continue to be reimbursed at their  
18 standard reimbursement rates. So reducing Medicare  
19 reimbursement to 340B hospitals would be --

20           DR. CROSSON: Thank you for your comment.

21           MR. DAVIS: -- inconsistent with this mechanism.

22 Thank you.

1 DR. CROSSON: Thank you for your comment.

2 DR. LUKE: Hi there. I'm Dr. Josh Luke and I  
3 teach at the University of Southern California's Sol School  
4 of Public Policy, and I've also been a hospital CEO and  
5 nursing home administrator for about 10 years.

6 I'm not here to advocate for any organization  
7 other than the fact that I'm passionate about serving  
8 seniors in the behavioral health community, as I've done  
9 for the last 15 years.

10 I just wanted to comment on some of the  
11 discussions that you've had today, and thank you for your  
12 service here because I see that same passion.

13 Having run a safety net hospital and also  
14 multiple nursing homes, when you talk about telehealth and  
15 remote monitoring, the numbers that were shared today --  
16 and I thought that was a great presentation. In fact, each  
17 of them, I was really thrilled to see all the great work  
18 put into them.

19 I would really encourage you to look at those  
20 numbers as a floor. That's really probably the minimal  
21 savings. We're so new in this process of researching and  
22 implementing this technology in the United States. Someone

1 referenced the studies that have been done overseas that  
2 are showing significantly higher results and I think we'll  
3 see the same over time.

4           In a hospital and a nursing home, some of the  
5 unintended savings that's there is cutting the length of  
6 stay by two or three days, very hard to measure, very hard  
7 to put into numbers. Very hard to get a psychiatrist to  
8 come out to a nursing home oftentimes. Very hard to get a  
9 psychiatrist to come. In Los Angeles County last year, I  
10 filled in as an interim CEO in a safety net hospital. Very  
11 difficult to get a psychiatrist to come to the emergency  
12 department whereas telehealth could have solved the problem  
13 in a matter of about two hours.

14           Getting, however, investor-owned safety net  
15 hospitals to make the investment in telehealth equipment,  
16 just the initial investment right now, is really a  
17 challenge.

18           In terms of the primary care presentation that  
19 was made earlier, I just had a couple of comments. I was  
20 the chair of the provider advisory committee for CalOptima  
21 in Orange County, California 10 years ago when we tried to  
22 auto-enroll.

1           Literally what you can expect when you give  
2 physicians that type of autonomy in an auto-enrollment  
3 situation is what we saw, which you walk into your primary  
4 care physicians office, a senior does, and the sign on the  
5 wall said if you want me to be your doctor, sign here. No  
6 more details necessary. Ten years later, Los Angeles  
7 County is attempting the same thing for 300,000 Medi-Medi  
8 enrollees and we're seeing the same behavior.

9           So I would just encourage you, as you look at  
10 those as it pertains to autonomy for physicians in the  
11 process, to keep that in mind.

12           Thank you very much for your time.

13           DR. CROSSON: Thank you very much.

14           MR. JAGODA: Good afternoon. My name is Jonathan  
15 Jagoda. I am the Director of Federal Government Relations  
16 with the Federation of State Medical Boards. We represent  
17 all 70 of the state medical and osteopathic licensing  
18 boards of the United States and its territories and I think  
19 you for the opportunity to comment.

20           The FSMB supports the safe and accountable use of  
21 telehealth and considers telehealth to be equivalent to the  
22 practice of medicine and, thus, should be held to the same

1 standard of care. The FSMB supports the state-based  
2 medical licensure and regulatory system, which requires a  
3 physician to be licensed at the location and the state of  
4 the patient. This time-tested and practice-proven system  
5 protects patients across the nation.

6 In accordance with this principal, the FSMB and  
7 the state medical boards that we represent support license  
8 portability, which is needed to expand access to care,  
9 streamline medical licensure, facilitate multi-state  
10 practice, and enable telemedicine in a safe manner. As  
11 such, state medical boards have begun to implement an  
12 interstate medical licensure compact, a new alternative  
13 pathway to allow for physicians to be licensed in an  
14 expedited fashion while ensuring patient safety across the  
15 country.

16 We look forward to sharing more information with  
17 you and work together with the Commission to support  
18 medical license portability.

19 DR. CROSSON: Thank you for your contribution.

20 MR. VICE: Hello. I am Elliot Vice, Director of  
21 Government Affairs for the National Council of State Boards  
22 of Nursing, and I hopefully will win the award for brevity

1 today because I echo Jonathan's comments.

2 We started working with our boards on an  
3 interstate compact for RNs and LPNs and LVNs back in 1997  
4 and currently have 25 states in that compact. Recently, it  
5 was revised and we will be going into states next year to  
6 add more of them to this compact.

7 Additionally, I would note that we are putting  
8 together a compact for Advanced Practice Registered Nurses,  
9 as well.

10 I really hope that you, as a Commission, see that  
11 state boards of nursing really are trying to lead the way  
12 to support license portability and telehealth.

13 To that end, I hope that the staff and the  
14 Commissioners will use us as a resource moving forward  
15 whenever you are discussing state-based licensure concerns.

16 DR. CROSSON: Thank you very much.

17 Seeing no one else at the microphone, we are  
18 adjourned until -- yes, 8:15 tomorrow morning.

19 [Whereupon, at 5:12 p.m., the meeting was  
20 recessed, to reconvene at 8:15 a.m. on Friday, November 6,  
21 2015.]

22

MEDICARE PAYMENT ADVISORY COMMISSION

PUBLIC MEETING

The Horizon Ballroom  
Ronald Reagan Building  
International Trade Center  
1300 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Friday, November 6, 2015  
8:15 a.m.

COMMISSIONERS PRESENT:

FRANCIS J. CROSSON, MD, Chair  
JON B. CHRISTIANSON, PhD, Vice Chair  
KATHERINE BAICKER, PhD  
KATHY BUTO, MPA  
ALICE COOMBS, MD  
WILLIS D. GRADISON, JR., MBA, DCS  
JACK HOADLEY, PhD  
MARY NAYLOR, PhD, FAAN, RN  
DAVID NERENZ, PhD  
RITA REDBERG, MD, MSc  
CRAIG SAMITT, MD, MBA  
SUSAN THOMPSON, MS, RN  
CORI UCCELLO, FSA, MAAA, MPP

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P R O C E E D I N G S

[8:15 a.m.]

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DR. CROSSON: Okay. Good morning, everyone. Welcome to the bright and early second day of the MedPAC meeting. Again, we have an important agenda this morning and both presentations, I think, containing a good deal of detail that we want to go through.

The first presentation is going to be on our continuing work which is based on a mandate to develop a unified payment system for post-acute care. We're going to do a couple of things. One is to examine the developing model in more detail, answer some questions that were raised at the last meeting, and then begin a discussion of some companion policies that are likely going to be needed as we develop this work, including looking at the potential for some regulatory changes.

So Carol and Dana are going to be leading us through this, and, Carol, you look like you're going to begin.

DR. CARTER: I am. The IMPACT Act of 2014 requires the Commission to evaluate the feasibility of a unified payment system for post-acute care. We have

1 discussed many times that even though the patients are  
2 treated in different settings and they can be similar,  
3 Medicare payments differ substantially. The Commission has  
4 noted that Medicare needs a more uniform approach to paying  
5 for post-acute care.

6           The IMPACT Act includes two opportunities for the  
7 Commission to weigh in on the design of the PAC payment  
8 system. In the first mandated report, due next June, the  
9 Congress is looking to MedPAC to recommend key features of  
10 a prospective payment system that is based on patient  
11 characteristics and not the site of care. It also asks  
12 that you consider the impacts of replacing the current PAC  
13 payment systems with a unified one. CMS will begin  
14 collecting common patient assessment information in October  
15 2018. The Secretary's report is due in 2022 and must use  
16 two years of the common patient assessment information. A  
17 second MedPAC report requires the Commission to make  
18 recommendations and detail a prototype design. Assuming  
19 this timetable, this report would be due in June 2023.

20           Today's session is the second in a series of  
21 presentations on this topic. In September we presented our  
22 approach to the mandate. As required by the mandate, we

1 are using data from CMS' demonstration to develop a model  
2 to predict the cost of stays, and these predicted costs  
3 could be used to establish payments. Using that model, we  
4 will estimate impacts using a full year of PAC stays.  
5 Today, we wanted to come back and address some of the  
6 issues raised in September. In January, we will review our  
7 results of modeling all PAC stays in 2013 and our estimates  
8 of the likely impacts on payments.

9           The primary goal of the PAC PPS is to establish a  
10 common payment system that spans the four PAC settings --  
11 SNFs, IRFs, home health agencies, and long-term-care  
12 hospitals -- with payments based on patient characteristics  
13 and not the site of service. But even with unified  
14 pricing, fee-for-service incentives will remain for PAC  
15 providers to minimize the care during a stay, to discharge  
16 patients quickly to another provider or setting, and these  
17 multiple PAC stays do not support care coordination. The  
18 Commission believes that Medicare needs to move away from  
19 fee-for-service payment and toward integrated payment  
20 approaches that put providers at risk for all health care  
21 spending and outcomes during a longer period of time, such  
22 as episode-based payments. Therefore, a unified PAC PPS

1 should not be considered the end point for payment reform  
2 but a good first step.

3           In September we reviewed our progress to date in  
4 designing a unified PPS. We developed a common unit of  
5 service, the stay, and a common risk adjustment method  
6 using the PAC-PRD data. The risk adjustment includes  
7 patient age, clinical conditions and comorbidities,  
8 functional and cognitive status, and other aspects of care,  
9 such as wound and ventilator care, and difficulty  
10 swallowing.

11           We are required to develop a PPS that spans the  
12 four PAC settings, but, currently, the home health benefit  
13 does not cover nontherapy ancillary services such as drugs.  
14 For our work, we assumed that the home health benefit would  
15 remain the same, so we developed one model to predict  
16 routine and therapy costs for the four PAC settings and a  
17 separate model to predict NTA costs across the three  
18 institutional PAC settings. The predicted cost would form  
19 the basis for a common payment. Based on patient  
20 characteristics, the models would establish one payment for  
21 routine and therapy services and a separate payment for NTA  
22 services.

1           We presented our preliminary results, looking at  
2 how well the models predicted the costs of stays. Both  
3 models are reasonably accurate and could be used to  
4 establish payments. We underscored that a unified PPS is  
5 likely to change how and where PAC services are furnished.

6           In September several issues were raised that we  
7 wanted to discuss today. Kate asked us to think about our  
8 approach to estimating costs and payments. Several of you  
9 mentioned additional patient groups to include in our  
10 analysis. Your discussion raised the point that even with  
11 an improved PPS, companion policies will be needed to  
12 dampen the incentives for fee-for-service. Alice asked  
13 about the outcomes of CMS' demonstration, and we'll review  
14 those. Kathy noted that CMS will need to monitor the  
15 implementation of the new payment system, and we included a  
16 discussion of that in the paper, and we'd be glad to  
17 discuss that on question. And Warner asked about providers  
18 having the flexibility to offer a range of PAC services and  
19 the need to waive some regulatory requirements to  
20 facilitate that.

21           So turning to the first issue, Kate asked us  
22 about how we were estimating costs and payments under a PAC

1 PPS. We can reasonably accurately predict the actual costs  
2 of stays, but that might only serve to replicate the  
3 current disparities in payments across settings. Ideally,  
4 we would want to predict the costs of efficient care in the  
5 most appropriate setting. Unfortunately, current practice  
6 patterns reflect a variety of factors that shape where  
7 beneficiaries get their care and how much they receive.  
8 The patterns do not necessarily reflect needed or efficient  
9 care. Further complicating the picture is the lack of  
10 evidence-based guidelines to help identify which  
11 beneficiaries need post-acute care, how much care they  
12 need, and where those services would be best provided. In  
13 sum, we know that the current practice patterns do not  
14 necessarily reflect efficient PAC use, but we don't know  
15 what the patterns of care should be.

16           We also need to proceed with caution in basing  
17 prices on the lowest-cost setting. The lowest-cost  
18 setting, home health care, may not be feasible for many  
19 patients, so basing payments on this setting for all  
20 conditions may not be appropriate.

21           Given the lack of clarity about the appropriate  
22 mix of PAC services, we have estimated the cost of care

1 using the current average mix of settings. This is a  
2 conservative approach because payments would be based on  
3 current utilization and would be least disruptive to  
4 providers and beneficiaries. However, over time, as with  
5 all prospective payment systems, payments would be  
6 recalibrated to reflect shifts in practice patterns that  
7 would change the average costs of care.

8           At the September meeting, several of you asked  
9 for preliminary results for additional patient groups. We  
10 have expanded the groups, and you can see them listed on  
11 the right-hand side. We added several clinical groups, two  
12 functional status groups, a group for the cognitively  
13 impaired, two groups for patient severity, and retained the  
14 community admitted, disabled, and dual-eligible groups.  
15 And the definitions of each of those are in your mailing  
16 materials.

17           The results for these more detailed patient  
18 groups reinforce our previous findings. For the model of  
19 routine and therapy services -- that's the one on the left  
20 -- we previously reported that over all stays, the ratio of  
21 the average predicted cost to the average actual stay cost  
22 was 1.0, and the model explained 56 percent of the

1 variation in costs across stays. For all of the new  
2 patient groups, the ratios of average predicted cost to  
3 average actual costs were 1.0 or close to it. Given the  
4 very large differences in costs between home health and  
5 institutional PAC settings, an adjustment will need to be  
6 made for those stays treated in home health care settings.  
7 Otherwise, these stays will be considerably overpaid, and  
8 the stays treated in institutional PAC settings would be  
9 underpaid.

10           On the right-hand side, you see the results of  
11 looking at the model combining routine, therapy, and  
12 nontherapy ancillary costs, and this would be with the home  
13 health stays excluded. The ratio of the average predicted  
14 cost to average actual costs across all stays was also 1.0,  
15 and the model explained 36 percent of the variation in  
16 costs across all the stays. The share of the variation in  
17 stay costs explained is lower because NTA costs are  
18 typically harder to predict than therapy costs and because  
19 this model excludes the home health indicator, and that  
20 makes it easier to predict the costs of stays. Across all  
21 the different patient groups, the ratios are 1.0 or close  
22 to it for most of the groups.

1           These preliminary results suggest that a unified  
2 PPS with a common unit of service and a common risk  
3 adjustment method is possible. The results also suggest  
4 that payments based on these predicted costs would not give  
5 providers strong incentives to select some types of  
6 patients over others. For example, the approach does not  
7 favor treating rehabilitation over medically complex  
8 patients. And we would expect the new payments to shift  
9 where patients are treated, both across and within  
10 settings.

11           MS. KELLEY: A unified PAC PPS will be a  
12 substantial improvement over the current siloed payment  
13 systems. Under a unified PAC PPS, Medicare will establish  
14 a common base price for patients needing post-acute care.  
15 Payments would vary based on patient characteristics, not  
16 on the site of service. Payments would be higher for  
17 sicker and more functionally dependent beneficiaries.  
18 Unlike in the current SNF and home health payment systems,  
19 providers will not be able to increase payments by  
20 increasing the amount of rehab they provide.

21           But, by itself, a unified PAC PPS would put  
22 providers at risk only for the care that's furnished during

1 the stay. Providers could reduce their costs by providing  
2 more efficient care, but they could also reduce their costs  
3 by stinting on care or by discharging patients earlier,  
4 which could compromise patient outcomes. They could  
5 discharge patients to other PAC providers, which would  
6 generate additional stays. At the same time, they could  
7 also increase revenues by admitting patients with marginal  
8 care needs. To counteract these incentives, policymakers  
9 will need to consider companion policies to a unified PAC  
10 PPS.

11 This slide outlines some companion policies that  
12 might be considered.

13 First, value-based purchasing could be used to  
14 tie a portion of payments to quality. Providers would then  
15 have an incentive to furnish the care needed to achieve  
16 good outcomes. CMS could also tie a portion of payment to  
17 resource use over the course of an episode, with a measure  
18 of Medicare spending per beneficiary. Providers would then  
19 have an incentive to ensure efficient care over the course  
20 of the PAC episode, not just during the time the patient  
21 was under the provider's care. I'll talk more about how an  
22 MSPB could work in a moment.

1           Another companion policy to consider is a  
2 readmission policy for all PAC settings. This would align  
3 hospital and PAC provider incentives to furnish adequate  
4 care within the PAC stay and to ensure safe transitions  
5 between settings.

6           Others have raised the possibility of contracting  
7 with a third-party vendor to manage PAC services. The  
8 vendor would be responsible for the costs of PAC services  
9 in a given area. Because the vendor would be at risk for  
10 the care within the area for a defined period of time, it  
11 would have a financial incentive to encourage beneficiaries  
12 to select the lowest-cost appropriate setting for  
13 beneficiaries needing PAC.

14           It would also be important for CMS to track  
15 provider responses to the new PAC PPS, such as changes in  
16 utilization and lengths of stay, and outcome measures such  
17 as readmission rates, emergency room visits, and changes in  
18 patient function during the PAC stay.

19           Finally, it will be important to include in the  
20 new PPS elements that protect providers, such as high-cost  
21 outlier payments. A transition period will also be  
22 necessary to give providers time to adapt to the new

1 payment environment. We will talk more about those  
2 policies in January.

3           This slide shows how a Medicare spending per  
4 beneficiary measure could be used to hold providers  
5 responsible for resource use during the course of an entire  
6 episode of care. As you know, an MSPB measure is currently  
7 used for hospital payment. As shown in the first row, the  
8 hospital MSPB includes all Part A and B spending during the  
9 hospital stay plus the 30 days after discharge. As with  
10 the hospital measure, a PAC MSPB could begin with an  
11 admission to the PAC setting and continue for 30 days after  
12 discharge from PAC. This is shown in the second row. PAC  
13 providers would also have an incentive to make judicious  
14 referrals to subsequent PAC care. A PAC MSPB would more  
15 closely align hospital and PAC providers since PAC  
16 providers would be at financial risk for their own episode  
17 spending. The IMPACT Act does require the Secretary to  
18 develop a resource use measure as one of the common quality  
19 measures across PAC settings.

20           I mentioned the importance of monitoring the  
21 effect of a unified PAC PPS on patient outs. In September  
22 Alice brought up this issue and asked what we knew about

1 how outcomes vary across PAC settings currently. To date,  
2 the PAC-PRD is the only study that has used comparable  
3 patient assessment data to examine patient outcomes across  
4 a wide range of conditions treated in the four PAC  
5 settings, and we have briefly summarized the findings on  
6 this slide.

7           The PAC-PRD evaluation looked at risk-adjusted  
8 30-day all-cause readmission rates and two measures of  
9 function: changes in mobility and changes in self-care.  
10 The study found no statistically significant differences in  
11 the risk-adjusted readmissions rates of SNFs, IRFs, and  
12 home health agencies. LTCHs did have lower readmission  
13 rates for all conditions combined and individually for  
14 respiratory conditions and circulatory conditions. These  
15 lower readmission rates might be expected due to LTCHs'  
16 ability to offer hospital-level care.

17           The PAC-PRD evaluation also looked at mobility  
18 improvements and found no significant differences across  
19 the PAC settings. As for self-care, across all patients,  
20 improvements were similar for patients treated in SNFs and  
21 LTCHs, but were significantly better for patients treated  
22 in IRFs and home health agencies.

1           Policymakers will also need to consider changes  
2 to the regulatory requirements for PAC providers. As you  
3 know, Medicare has very different requirements for the  
4 different PAC settings, with more stringent requirements  
5 for LTCHs and IRFs. A unified PAC PPS would necessitate  
6 moving away from setting-specific regulations. Otherwise,  
7 providers in different settings would be paid the same for  
8 treating the same patient even though they would incur  
9 different costs associated with their differing regulatory  
10 requirements.

11           In the short term, policymakers could level the  
12 playing field by relieving IRFs and LTCHs of certain  
13 regulatory requirements governing patient care. For  
14 example, IRFs might be relieved of the general requirements  
15 for intensive therapy, and the required frequency of  
16 physician visits could be reduced. The IRF 60-percent rule  
17 and the 25-day length of stay requirement for LTCHs could  
18 also be reconsidered.

19           In the longer term, CMS could consider developing  
20 a common set of regulatory requirements for PAC providers  
21 to ensure a baseline level of competency while still  
22 allowing providers the flexibility to adjust their mix of

1 services and staffing to meet the needs of patients.  
2 Policymakers could also consider changes to the Medicare  
3 benefit that would standardize covered services across PAC  
4 settings.

5           This slide outlines the domains that might be  
6 considered for a common set of regulatory requirements.  
7 Possible domains include staffing levels and mix, the  
8 availability of physicians, and the frequency and content  
9 of patient assessments and care plans, as well as other  
10 domains listed on the left-hand side of the slide.

11           As noted on the right-hand side, one should not  
12 necessarily assume that standardizing regulatory  
13 requirements across PAC providers would result in the  
14 application of current SNF regulations to all institutional  
15 providers. A common set of requirements might actually  
16 raise the staffing and physician oversight requirements for  
17 SNFs. CMS could also develop specific requirements for  
18 providers who admit patients with particular care needs,  
19 such as wounds or ventilator care. For example, PAC  
20 providers that admit patients who require prolonged  
21 ventilator care could be required to have sufficiently  
22 trained staff and equipment to furnish appropriate nursing

1 care and respiratory therapy and to demonstrate use of  
2 evidence-based ventilator weaning practices.

3           In summary, our work thus far has shown that it  
4 will be possible to design a reasonably accurate unified  
5 PAC PPS using a common unit of service and a common risk  
6 adjustment method. Payments based on these models would  
7 give providers little incentive to selectively admit or  
8 avoid certain types of patients, and payments would be  
9 reasonably accurate.

10           Ideally, the unified PAC PPS would make payments  
11 based on the resources needed to efficiently provide high-  
12 quality care in the most appropriate setting. But as Carol  
13 discussed, we lack information about which settings  
14 represent the best value for the program for many  
15 beneficiary conditions. So we propose to pursue a  
16 conservative strategy at this time: to base payments on  
17 the current mix of settings and costs. This strategy means  
18 that initial payments under the new PAC PPS would reflect  
19 any current inefficiencies. But over time, as practice  
20 patterns change, Medicare will update its rates to reflect  
21 changes in the costs of care and shifts in where  
22 beneficiaries receive their care.

1           Although a common PPS for PAC stays would begin  
2 to rationalize Medicare's payments, it would not correct  
3 the underlying incentives in fee-for-service payment to  
4 furnish unnecessary care or to provide low-quality care if  
5 it is less costly. Short of broader reforms that establish  
6 payments for larger bundles of care or population-based  
7 payments, Medicare would need to adopt companion policies  
8 to deter undesirable provider responses to fee-for-service.  
9 In addition, Medicare would also need to consider moving  
10 away from setting-specific regulations that impose  
11 differential, setting-specific costs. And, of course, it  
12 will be important for CMS to continually monitor provider  
13 behavior and beneficiaries' access to quality post-acute  
14 care.

15           That concludes our presentation. We've noted a  
16 few possible topics for discussion here on this slide, and  
17 we're happy to take any questions.

18           DR. CROSSON: Okay. Thank you very much, Carol  
19 and Dana. We're going to go to clarifying questions, and  
20 I'd like to start with one on page 11, if I could.

21           Just listening to your closing remarks about  
22 going beyond this policy and where CMS might want to go

1 eventually, I wonder if you could elaborate on this third  
2 party managing the post-acute care idea because I could  
3 think of a couple of ways that this could take place, and  
4 maybe it actually it is being done, so I don't know. But  
5 one would be paying a third party to manage, and there  
6 would be an administrative fee, and that fee, all or in  
7 part, would be at risk based on the quality and cost. But  
8 Medicare would still be paying fee-for-service to the  
9 providers.

10 Another way would be something like a global  
11 payment, either per beneficiary or in the population and  
12 area or something, where essentially, much like Medicare  
13 Advantage, the entire payment per whatever would go to the  
14 entity who would then manage that much in the way that  
15 Medicare Advantage plan manages general Medicare services.

16 So are both of those ideas contained in this  
17 bullet point or what?

18 MS. KELLEY: Yes. I think both of those ideas  
19 are contained in that bullet point, and I think both of  
20 those ideas are in use in certain markets in the country.

21 I think Carol and Evan spoke last year about  
22 interviews they did.

1 DR. CARTER: Yeah. So, last year, Evan and I  
2 talked to many, both systems and MA plans, and we did talk  
3 to three or four different benefit managers, where somebody  
4 is paying -- in this case, it was MA plans -- were paying a  
5 fee to basically manage the care, but fee-for-service was  
6 running underneath that. In the MA world, sort of they  
7 were paying -- they were not paying their providers  
8 directly. But my understanding is that there are sort of  
9 sub-capitation arrangements also.

10 They predict the expected -- using -- many of  
11 them go into actual hospitals while the patients are still  
12 in their stay and start to assess the patient as to kind of  
13 their characteristics, their functional care needs, and  
14 using kind of a large database, compare those patients to  
15 other patients in their database to predict where would be  
16 the best setting for the patient and the expected length of  
17 stay and the expected functional change one could expect  
18 for the patient with those characteristics. I mean, I  
19 think that kind of predictive modeling is pretty common for  
20 these benefit managers.

21 So I think we're thinking either one of those  
22 arrangements might work, and I think both are currently in

1 practice.

2 DR. CROSSON: Thank you so much.

3 Clarifying questions? Mary.

4 DR. NAYLOR: Can you clarify? I don't know.

5 This is clarifying, so I'll ask. Value-based purchasing  
6 and the readmission policies, do you think that they are  
7 sufficient to really promote the care coordination and care  
8 management that is essential for people at this phase in  
9 their journey?

10 DR. CARTER: Maybe.

11 [Laughter.]

12 DR. CARTER: I guess one thought I have is it's  
13 hard to -- I mean, we had these global measures of whether  
14 those are effective. Like readmissions is a rather -- you  
15 know, it's a blunt instrument. There are lots of things  
16 that can go wrong with a patient before they're actually  
17 readmitted, but that is one sort of endpoint of a  
18 progression you would hope patients don't have, so poor  
19 hand-offs might result in readmission rates. But you could  
20 imagine poor care not being picked up in a readmission  
21 rate.

22 I think an MSPB measure starts to look at

1 coordinated care and how safe and good are those  
2 transitions, and some of the care coordination quality  
3 measures tend to be process measures. So I guess I'm  
4 trying to think of a good outcome measure.

5 DR. NAYLOR: Maybe another way to say it is  
6 there's nothing that prevents us from considering, in the  
7 companion policies, explicit levers to promote care  
8 coordination.

9 DR. CARTER: No. And that would be a great thing  
10 for you all to talk about.

11 DR. NAYLOR: And the second is on the transfer  
12 policy. You addressed that very well. This was a great  
13 paper, addressed it very well in the paper, but I'm  
14 wondering if you could explain what -- you're trying, on  
15 the one hand, to prevent premature discharge, et cetera.  
16 On the other hand, you want to have some kind of regulatory  
17 relief to enable people to move when they're ready, if it's  
18 in three days or four days, to a lower, less-intensive site  
19 of care, if that's the best match.

20 So I'm trying to figure out, how do you navigate,  
21 thread that needle?

22 MS. KELLEY: So the current transfer policies

1 that are in place in Medicare now, for example, in the IRF  
2 PPS, for cases that are discharged from the IRF and then  
3 admission on the same day to another IRF, a SNF, an LTCH,  
4 or an acute care hospital, and the length of stay for that  
5 first IRF stay is shorter than average.

6 The first IRF is paid on a per-diem basis up to  
7 the full rate for the case, and so that, I think, helps  
8 allow IRFs to discharge early if they need to, but also  
9 protects the program from making excessive payments for  
10 patients that are discharged earlier than they might be and  
11 then readmitted somewhere else.

12 I'm not sure if that answers your question.

13 DR. CROSSON: Clarifying questions. I saw Cori,  
14 Jack, Alice, Kathy, David.

15 MS. UCCELLO: So, on this measure of resource  
16 use, can you remind me? Is this trying to highlight or  
17 flag when there's too much used or not enough?

18 DR. CARTER: I think that's -- I'm sensing in  
19 there a good point in the sense that we tend to focus on  
20 overuse, and that measure, I think typically looks at  
21 identifying high use. But you might use it as a measure of  
22 underuse as well, because if you saw that spending was sort

1 of not for a specific case -- I mean, I think these are  
2 always averages, but if a facility -- because these would  
3 be facility-level measures. If you saw a facility-level  
4 cost was always low, I think you really would then.

5 I guess the other thing I should say about MSPB  
6 packets, I don't think it's a measure that you should use  
7 in isolation. I mean, I think you need to look at the  
8 quality measures for exactly that reason.

9 DR. CROSSON: Jack.

10 DR. HOADLEY: So I was thinking about the same  
11 third-party vendor thing that Jay raised and wondering if  
12 in the experience that you've seen -- and maybe in those  
13 interviews -- were there issues of where the vendor who was  
14 doing this kind of planning or whatever the right noun is  
15 there -- I mean, I worry about a situation where they'd be  
16 co-owned by one of the types of providers, and you'd end up  
17 with conflict of interest. Does that come up at all in  
18 these situations?

19 DR. CARTER: It hasn't. We heard mostly positive  
20 things in that the beneficiaries, I think, liked -- we  
21 didn't talk to beneficiaries, but what people told us was  
22 there's so much confusion during the hospital stay about

1 where patients should go that actually having somebody  
2 guide that decision-making is helpful.

3           Also, if the network has already screened PAC  
4 providers to include -- and that's an "if" -- to include  
5 high-quality providers, then you're actually being guided  
6 to a place that provides good care, and so that could be  
7 good.

8           In at least one of the cases that I'm  
9 remembering, beneficiaries had the option of opting -- not  
10 taking the recommendation, and so that would be something  
11 to talk about, is whether in something like that, do you  
12 have to go with the recommended site? And I think some  
13 beneficiaries didn't -- were reported that they weren't --  
14 they didn't like having a third person, so I think that  
15 that can go both ways. You are adding another layer, and  
16 that may be good, and in some cases maybe not.

17           DR. MILLER: Also, don't I recall in some of  
18 those discussions -- and this is a little hazy for me, and  
19 I'm moving off of the beneficiary discussion and talking  
20 more about the vendor and the providers.

21           There wasn't always open doors, so a vendor might  
22 be saying, "We want to manage," and some hospitals were

1 okay with that, some hospitals not okay with that. And I  
2 don't know that it was directly because of ownership  
3 issues, but there were some dynamics of who was who, what  
4 competition was occurring in the market that I also think  
5 played into some of this.

6 DR. CROSSON: And in some of those circumstances,  
7 could the hospital in fact be in a financial relationship  
8 with certain PAC providers?

9 DR. CARTER: Sure. I don't know that they were  
10 in the places where we were talking, but, I mean, lots of  
11 hospitals own home health agencies, and hospital-based SNFs  
12 are pretty few. But I think hospitals do have a financial  
13 relationship with PAC providers, yeah.

14 DR. HOADLEY: Yeah. No, it seems like there  
15 would be a number of things you would want to worry about.  
16 I mean, obviously, there's a lot of potential ownerships  
17 and conflicts, but overall, it sounds like it could be a  
18 substantial service to the beneficiaries involved.

19 DR. MILLER: So I'll just say this, and maybe you  
20 guys can talk about it at some other point in time, because  
21 this is clarifying. But, I mean, if this path were pursued  
22 by you guys, I mean, there would -- I mean, I think we

1 would be thinking there would be some designation from the  
2 Secretary that says this is who the third party is, and so  
3 the notion of what their interests are, as you said, would  
4 be worked through before.

5 DR. CROSSON: All right.

6 DR. MILLER: Sorry. Go ahead.

7 DR. CROSSON: Alice.

8 DR. COOMBS: On page 11 in the reading material,  
9 you talk about the HCC, and then there's a reference to the  
10 severity of illness indicator. And I was wondering how  
11 well that -- because you can have systems with -- you have  
12 five systems, five systems that are kind of mildly impacted  
13 versus three systems that are severely impacted.

14 I was wondering how well are we able to predict  
15 resource utilization at the level of the PAC. Are we able  
16 to -- because the ACC doesn't really tell you about the  
17 resources necessary that would be needed. It's a correlate  
18 in terms of risk adjustment, but for the immediate phase of  
19 the PAC, how much does that correlate with the amount of  
20 resources that -- like, for instance, you did a great job  
21 talking about the wound vac and events, but I'm wondering  
22 how well, if you were to look at those numbers and say,

1 "Okay. I can predict how much resources would be  
2 correlated with this number or that number."

3 DR. CARTER: So we did look at -- I'm not sure  
4 I'm getting your question, but we did look --

5 DR. MILLER: Can I ask? So what I'm not  
6 following, Alice, is we put up some model results that talk  
7 about the overall and then by category of patient, and then  
8 you seem to be asking the precision of the model in a  
9 different circumstances. I'm not quite following --

10 DR. COOMBS: So, if I came up with the severity  
11 of illness index that said it was a -- and you gave an  
12 example in the paper of a level 4, what kind of resource  
13 utilization would you project with that kind of level as  
14 opposed to a level 3, a level 2? Can you correlate that?

15 DR. CARTER: So what I'm reporting is for how  
16 well did the model predict cost for level 4 patients.  
17 That's the measure, and so you can see that the model did  
18 pretty well.

19 We haven't compared it to other levels of  
20 severity, so I don't know, and we could do that. But what  
21 we had heard from the conversation was we wanted to know  
22 how the model was working for very sick patients. So we

1 picked level 4 as an indicator of very sick patients, just  
2 like we also picked, oh, patients who have five or more  
3 comorbidities and sort of involving those -- and so those  
4 are the model results.

5 We didn't look at are the models more accurate if  
6 the patient is in an LTCH. This was sort of across all  
7 stays. Does that help?

8 DR. COOMBS: So that helps, but what I'm looking  
9 at is if I were an LTCH or a SNF or IRF is how much do I  
10 have to pour into that patient who rolls into the door. Am  
11 I able to say that this patient is going to be a consumer  
12 of a lot of resources? For the example of the wound vac  
13 patient, they may have severity of illnesses relatively  
14 mild, but they have an open wound that requires a lot of  
15 attention every single day. And so that patient is  
16 actually more labor intensive than someone who is coming  
17 for cognitive kind of --

18 DR. CARTER: Right. But what you can see from  
19 these results is those patients are more expensive, and  
20 their payments would be higher. And the payments match  
21 pretty closely with those costs. So, yes, you're right.  
22 The resources are higher, and so would the payments.

1 DR. CROSSON: Kate?

2 DR. BAICKER: So, just to clarify the  
3 clarification, my understanding from all this is that when  
4 you look at the predicted versus the actual, the model does  
5 very well, and those were those predicted versus actual  
6 ranges that we were seeing that were really very narrow,  
7 which suggest the model is doing a pretty good job.

8 There is a more subtle question embedded in what  
9 you're asking, which is can the providers do an even better  
10 job than the model, and can they then say, "Actually, the  
11 model is predicting this, but I know that this flavor of  
12 patient is on the high side, and this flavor of patient is  
13 on the low side."

14 DR. COOMBS: Right.

15 DR. BAICKER: If they've got a better risk  
16 adjustment model in mind than we do, they could do some  
17 selecting. On the other hand, it seems like this is  
18 soaking up a huge amount. Not only is the actual versus  
19 the predicted very close, but it's soaking up a huge amount  
20 of the variation. There's not a lot of R-squared left to  
21 go around. So, even though that seems like a real  
22 potential risk, it doesn't look like in practice it would

1 be all that big, but time would tell.

2 DR. COOMBS: Right.

3 MS. KELLEY: And to build on that point, I mean,  
4 this is a small sample, so there's only so finely we can  
5 slice it, but that's another reason why we looked at  
6 severity in a couple of different ways, to try and see how  
7 it worked when you described it, a ventilator patient  
8 versus a wound patient versus a severity of illness floor.  
9 We tried to get at it in several different ways.

10 DR. MILLER: And you're going to come back and  
11 look at it again using the full-claim set, just to get  
12 another view on it to see how accurate the models are and  
13 in a sense try and triangulate.

14 MS. KELLEY: Right. And that would allow us to  
15 make some of those finer cuts.

16 DR. MILLER: Exactly.

17 DR. COOMBS: Not to slip into Round 2, but  
18 decisions may be made by facilities based on that  
19 information, so that there may be a predilection for  
20 certain facilities to take certain types of patients,  
21 obviously because they have familiarity with the resource  
22 utilization.

1 MS. KELLEY: And I think that that's not  
2 something we would want to discourage, right? I mean, for  
3 certain types of patients, you really do want expertise.

4 DR. CROSSON: Kathy.

5 MS. BUTO: My questions really go to the  
6 differences in coverage and mainly for home health patients  
7 and SNF patients with the three-day hospital stay  
8 requirement and the homebound requirements for home health  
9 patients and so on. And I recognize that the model does a  
10 really good job of picking up the differences in the  
11 severity of patients and so on.

12 I guess I'm wondering -- because as I think about  
13 the eventual goal here, that we're trying both to  
14 neutralize or we don't want payment to drive the site of  
15 care, on the one hand, for patients who are similarly  
16 situated and could be in a number of different settings,  
17 and I guess we're also trying to reduce the likelihood of  
18 inappropriately high cost, say in rehab and other areas.  
19 But how do the nature -- how does the nature of coverage,  
20 sort of the entry criteria for the patients -- does that  
21 have any impact on -- or any relationship to how good the  
22 model is going to be and actually providing payment in

1 certain settings? And I guess I am particularly thinking  
2 of home health because it seems to me there, we might have  
3 a very different institutional situation, since there isn't  
4 an institution. So you have different costs and so on.

5           So maybe you could address that, and I think you  
6 did address some of the institutional requirements that  
7 might need to be relaxed or changes, but now I'm wondering  
8 is there any justification -- but maybe this is Round 2 --  
9 of having all these different kinds of institutional  
10 settings.

11           So, really, it's question one about the coverage  
12 and how the different nature of the patients entering into  
13 these different settings has any impact or has been  
14 considered in the model.

15           DR. CARTER: So the model reflects current  
16 practice, and we know that coverage rules do influence  
17 clearly where patients go. The IRF requirements for  
18 intensive therapy mean, if a patient can't tolerate  
19 intensive therapy, which is often interpreted as three  
20 hours of therapy, those patients don't go to IRFs. And so  
21 we would be predicting cost of patients in IRFs for the  
22 patients that could tolerate three hours of therapy.

1 That's kind of built into the model in the same way that  
2 for patients who don't have a qualifying SNF stay, they may  
3 go to other settings. And we've heard that sometimes those  
4 patients end up in IRFs because they don't have a  
5 qualifying hospital stay, and that's not a requirement for  
6 IRFs, or they can go home -- if they can go home, you would  
7 pick those -- the cost of those patients up in the patients  
8 that we're trying to predict that we're seeing in home  
9 health.

10 I don't think that right now our -- the model  
11 doesn't try to influence in any way setting use.

12 MS. BUTO: Where they go.

13 DR. CARTER: Where they go. But that is embedded  
14 in the current utilization practice patterns.

15 DR. CROSSON: Okay. Bill and then David.

16 MR. GRADISON: I'm looking at page 23 in the  
17 mailing. My understanding is that this model creates the  
18 possibility that there might be two different regulatory  
19 standards supplying to a single -- the same provider. I'm  
20 not sure I got that, but I think that's how it would work,  
21 and I'm trying to think about any analogy that would help  
22 me understand this.

1           I suppose a rural hospital that has swing beds  
2 has two standards, one for the hospital patients and one  
3 for the nursing home patients, and so maybe that would be  
4 the same idea here, that you might have two different --  
5 maybe more than two standards, depending on patient group  
6 A, B, and C. Do I get it correctly?

7           MS. KELLEY: Yeah, that is exactly what we were  
8 thinking of, and I think your notion about the swing beds  
9 being an example of where that currently happens is a good  
10 one.

11          MR. GRADISON: Thank you.

12          DR. MILLER: So you might have some minimum --  
13 and this is an evolution. This is not happening today or  
14 this week. So, you know, you might have some minimum  
15 regulatory requirements and then say if you want to take  
16 certain types of patients, then you have to have these  
17 additional requirements. So if you want to take vent  
18 patients, you need to be able to do these things. And I  
19 think in some ways some parts of the industry are kind of  
20 evolving in that --

21          MS. KELLEY: Well, yes, and I should let the SNF  
22 experts speak about this, but the recent staffing changes

1 that CMS has been considering have been focusing -- for  
2 SNFs, have been focusing on having facilities adjust to the  
3 patient mixes that they serve.

4 DR. NERENZ: Can you just remind us what the cost  
5 data are here, actual costs?

6 DR. CARTER: Yes. So the simple version is we  
7 took charges off the claims and converted them to cost  
8 using facility-level, department-specific cost-to-charge  
9 ratios. There's a few twists because we don't have nursing  
10 level on the claims. It's a broad, you know, room rate.  
11 So we use the PAC-PRD data that had resource use for  
12 nursing and constructed an intensity index, if you will, of  
13 the nursing component and applied that to a daily rate for  
14 the nursing, to adjust it up and down for the resource for  
15 nursing.

16 DR. NERENZ: Okay. So answer this as a Phase 2,  
17 if you want. I'm just curious in going with this question  
18 how different this methodology is from, say, the DRG  
19 development where it was essentially time-motion analysis.  
20 I'm not sure if people quite say it with stopwatches, but  
21 having been involved in some of the long-term psych  
22 development, it was basically built on time-motion studies,

1 and then actual time to --

2 DR. MILLER: I don't think that's right. I don't  
3 think it was time-motion.

4 DR. NERENZ: Well, I did for long-term psych, and  
5 it was.

6 DR. CARTER: The RUG system is more like that.

7 DR. NERENZ: RUG, well, RUGS is like --

8 DR. CARTER: The RUGs was -- yeah.

9 DR. MILLER: You said --

10 DR. NERENZ: Well, no, I sort of threw them all  
11 together, but I --

12 DR. CARTER: They're different. Yeah, the DRGs  
13 didn't do that.

14 DR. NERENZ: Okay. And I just was speculating,  
15 and that can be Phase 2, if it would have mattered.  
16 Probably doesn't.

17 Okay. Then the second clarifying question, and  
18 we could look at Slide 9. Again, probably a reminder, we  
19 probably saw this in September. You could get these  
20 statistics by predicting really small differences around  
21 the overall average by group, or you could get these  
22 statistics by picking up really big marked differences. So

1 just can you give us an idea, let's say, for the ten  
2 clinical groups, what's kind of the ratio from most  
3 expensive to least expensive? How big are those  
4 differences?

5 DR. CARTER: So the clinical groups vary, so some  
6 of them are expensive and some of them are less expensive.  
7 We have ratios for -- well, you can see in the paper, you  
8 know, you have ratios for each of the groups.

9 DR. NERENZ: [off microphone].

10 DR. CARTER: Yeah, yeah. So in the -- this is  
11 just summarizing what's in the paper. So there's an actual  
12 row for each of the ten conditions, and I didn't include  
13 the average cost of the groups, but we could do that. So  
14 the -- does that answer your question? I'm not sure...

15 DR. NERENZ: I have a table on page 12 [off  
16 microphone].

17 DR. CROSSON: David, microphone.

18 DR. CARTER: So on page 12, you see each of the  
19 ten clinical conditions and the ratios for each of them.

20 DR. NERENZ: But that's the accuracy. I'm  
21 interested in, like, is ventilator care five times as much  
22 as, like --

1 DR. CARTER: Yes. And we can get you that  
2 information. I just didn't --

3 DR. NERENZ: Okay, no, I just --

4 DR. CARTER: They vary a lot.

5 DR. NERENZ: Are these groupings picking up  
6 really big marked differences, or are they picking up  
7 "scooches"?

8 [Laughter.]

9 DR. CARTER: So the groups are broadly defined,  
10 in part because the sample size is pretty small. In fact,  
11 there were some groups I was particularly interested, but I  
12 thought they were too small to report. And Alice had asked  
13 about, you know, medically complex with, I forget what it  
14 was, dialysis, vent, and something else. And there weren't  
15 the cases to have a stable estimate, so I didn't report  
16 that. But we'll come back to that one when we have a  
17 bigger sample size.

18 So we were trying to balance sort of how big was  
19 the group with also retaining some clinical coherence.

20 DR. CROSSON: Okay. I think we're ready to move  
21 on to the general discussion. Alice is going to lead off.  
22 I'm just warning you in case you didn't remember. But I

1 would like -- and, Alice, you can lead off in any way would  
2 like, but I think just in terms of the discussion, what I'd  
3 like to do is have a first round on the model itself.  
4 Further discussion about the model, recommendations to  
5 change the model, whatever additional information. And  
6 then a second round on the companion policies, managing the  
7 utilization and cost, quality, and the issue of the  
8 regulatory piece. And we'll do all those together. Okay?

9 DR. COOMBS: Nice job. Really nice job. And I'm  
10 very interested in this stuff because I'm in the ICU, and I  
11 think it's really important because the placement of  
12 patients from the ICU can be impacted greatly by the number  
13 of beds and the accessibility to those beds.

14 So, first of all, I think to speak specifically  
15 about the model, I think the model works. I was just a  
16 little bit concerned that it reflect the resources  
17 utilized, and I think we're at the place where it actually  
18 does.

19 The question I have long term is what does it do  
20 to the industry, how does it move the industry to kind of  
21 do things that are innovative versus things that restrict  
22 their capacity. And restricting their capacity might mean

1 that they take on a totally different personality, which  
2 they might restrict the kind of aggressive interventions  
3 that they may have had.

4           Once that happens, the state regulatory impact  
5 becomes important because there's some states that have  
6 rules and regulations whereby if you lose this, you have to  
7 have a bigger climb to get back to where you were. And  
8 I'll jump to the last thing, which is the butting of heads  
9 between federal and state may be significant in some areas  
10 where you may need to have -- Bill was speaking about  
11 something that I was thinking about at 5 o'clock this  
12 morning, which was how can you take on different  
13 personalities to accommodate all the things that a PAC has  
14 to deal with.

15           For instance, you talked about the notion of how  
16 do we relax certain regulations, but then you have the  
17 state regulations. So for Massachusetts, there are certain  
18 state regulations about if you're going to operate in this  
19 realm, you're going to have to do this. So is it possible  
20 to have, you know, five different children under the same  
21 parent, you know, if it were necessary?

22           So I think that this whole business of how do you

1 address all of the regulatory changes that are down the  
2 pike, the state, the federal, and then the companion  
3 policies that we decide to implement.

4           Back to the companion, which I think is  
5 definitely the spouse of this whole thing, it has to be in  
6 operation, because what I've seen as an ICU doctor is that  
7 patients will go to an LTCH and there will be this churning  
8 that occurs in the community, and there's really no  
9 consequences. And I've always asked if a patient goes to  
10 one facility and they go home and then they bounce back to  
11 another facility, an IRF or whatever, how is the cost  
12 attributed across those two spectrums right now? And I'm  
13 not sure that, you know, we have a good containment of how  
14 that is actually done. Maybe you guys can speak to that,  
15 but in my neighborhood, I'm not sure that there's any  
16 denial of the second or the first or how it works.

17           MS. KELLEY: There are certain rules. There's an  
18 interrupted-stay policy for LTCH care. For example, if a  
19 patient leaves the LTCH and goes to a SNF and then comes  
20 back to the LTCH within some period of time, there are  
21 payment consequences for that for the LTCH.

22           You know, I think those are the types -- there

1 are additional types of companion policies that we would  
2 want to think about in terms of discouraging certain kinds  
3 of behavior. I'm not sure if that answers --

4 DR. MILLER: Yeah, I mean, I think the discussion  
5 around things like the spending -- I think we're saying  
6 MSPB, but basically the spending over some period of time,  
7 whether it's 30 or 60 days, gets at some of this. You used  
8 the word, I think, "churning" in your comments, and so if  
9 somebody's kind of balancing patients, and let's just agree  
10 for a moment, inappropriately, then that metric would begin  
11 to light up if that was happening.

12 To what Mary was saying, and you were responding  
13 to, of course, you want a companion with that, that it's  
14 not just about spending, it's also about outcomes, like  
15 readmissions or functional status or what the case may be,  
16 or what I suspect Mary is going to be reaching for, other  
17 measures that kind of force a level of coordination to  
18 occur, you know, recognizing that we still have something  
19 of a fractured system here. So I think this report and  
20 some of their ideas and I suspect some of the things that  
21 are going to get said here will speak directly to those  
22 kinds of concerns.

1 DR. COOMBS: So the last thing I wanted to speak  
2 about is the whole notion of a vendor or someone to help --  
3 a navigator, I will call it, for all intents and purposes.  
4 What I found also is that some patients who say they have a  
5 procedure at this facility and then they go to an IRF or  
6 SNF or LTCH that's geographically very far from their  
7 primary -- where they receive their primary care, and so  
8 that when they bounce back, they bounce back to another  
9 acute-care hospital.

10 Now, it jibes with the whole thing of  
11 coordination of care, but also it's very problematic in the  
12 sense that these new providers quality-wise don't  
13 understand fully about what happened at the institution.  
14 And in my area, I can say that nearly 90 percent of the  
15 time when that happens, when they bounce from acute-care  
16 facility, IRF, or LTCH, and then to my facility, and we  
17 call to get that patient transferred back to the acute-care  
18 facility, they never have beds in 90 percent of the time.  
19 So then you have -- it's this truncated care that occurs.

20 So I think the vendors would be very important in  
21 the sense that they might be able to geographically work  
22 with the systems to make sure that patients are in close

1 proximity to where they receive most of their care. So I  
2 think, you know, as I think about it, we've had some really  
3 unfortunate patients that, you know, they get in this  
4 treadmill and they wind up so far away from where they  
5 received their original care, and there's a duplication of  
6 lots of services, and care coordination is at its worse.

7 Thank you so much.

8 DR. CROSSON: Yes. Kate, did you want to make a  
9 comment on this? Oh, no? Okay. So I just -- Alice did  
10 bring up one thing about the interplay between federal and  
11 state regulation. Did you want to make a comment on that?

12 MS. KELLEY: There will be some interplay.

13 DR. CROSSON: Okay.

14 [Laughter.]

15 DR. CROSSON: Check.

16 MS. KELLEY: It's definitely something I think  
17 we'll need to be cognizant of, but I don't know that we can  
18 take on a 50-state analysis of how this would work. But it  
19 definitely will, I think, vary from state to state.

20 DR. COOMBS: I just think that [off microphone]  
21 we need to have some kind of strategy for which  
22 institutions might be able to -- not wiggle room, but to

1 work within the confines of what they have to deal with.

2 DR. MILLER: And, I mean, we had a little bit of  
3 this conversation yesterday. Some of this goes on now. I  
4 mean, Medicare generally sets its policies by saying, you  
5 know, this is what we do, we have conditions of  
6 participation, whatever the case may be. But if a state  
7 determines, say, for example, you know, what PA or an MP  
8 can do or a facility can do generally, Medicare sort of  
9 says, all right, well, in that state that's the way it's  
10 going to be. I think the real question will be whether  
11 we're trying to rebuild that at the state level, which I'm  
12 with you guys, I think that would be a very hard  
13 undertaking, or we're just going to continue to kind of  
14 accept the licensing requirements of the states and then  
15 Medicare kind of overlays that.

16 MS. KELLEY: And I think that, you know, those  
17 different state environments will absolutely affect how  
18 things play out under the new PPS in terms of, you know,  
19 right now New York has no LTCHs, the states doesn't really  
20 allow them. Other states have plenty of them.

21 And so what will happen under a new PPS will be  
22 very different, I suspect, in Arkansas than it is in New

1 York based on the providers that are available.

2 DR. MILLER: That's what I was trying to say.

3 DR. CROSSON: And so it probably will be useful  
4 down the line to at least identify some of those major  
5 issues, you know, like, you know, we talked about  
6 telemedicine yesterday, and, you know, it's a great idea  
7 except that, in fact, in some states, many states, you  
8 can't do it across state lines. So to the extent that  
9 there are, you know, not all but major state issues that  
10 impact our thinking, that would be useful down the line.

11 DR. COOMBS: I just want to say one other thing.  
12 You can also look at nursing ratios that are state  
13 regulatory versus --

14 DR. CARTER: Yeah, I was thinking about that in  
15 the nursing home context.

16 DR. CROSSON: Okay. So the first round on the  
17 model, Kate?

18 DR. BAICKER: So I really appreciated the deeper  
19 dive into understanding how the model works and the  
20 potential for setting an efficient threshold versus the  
21 patterns that people are actually utilizing right now, and  
22 where you've landed makes a lot of sense to me in terms of

1 the limited data that's available right now. And the  
2 longer-term vision of going to one schedule that's  
3 calibrated to the right site of care for the patient rather  
4 than where the patient is going under the current system  
5 seems like where we want to get. But we can't quite get  
6 there yet, and this seems like a really productive step in  
7 that direction to me. I think all the supportive policies  
8 would make this model work even better in terms of  
9 loosening the restrictions that are differential across  
10 sites. Collecting the new data that's going to be  
11 collected between now and the next report will let us  
12 figure out what the most efficient site would be ideally  
13 under those level playing field requirements.

14 DR. CROSSON: On the model.

15 MS. BUTO: Yeah, the one thing that -- and I  
16 don't know if it's strictly on the model because it's  
17 really in the section of the paper that talks about the  
18 work from the PAC demo on outcomes, is that there are,  
19 there appear to be some different outcomes in different  
20 settings. So I guess one thing I would say -- and I notice  
21 we do recommend or suggest that a robust evaluation has to  
22 go on and so on as more data become available. But I think

1 it's important for us to track whether those changes  
2 continue or those differences continue under a model or  
3 whether they actually smooth out so we begin to see more  
4 uniformity, because I think ultimately in the paper we get  
5 to -- you know, when we get to the regulatory requirements  
6 part, we suggest, well, maybe we really need to sort of  
7 make those more uniform. But I'd be interested to know  
8 whether these outcomes, which in some cases are different  
9 currently, continue or not, because there might be patient  
10 differences or intensity of care differences that matter  
11 that we would want to preserve as we go forward with the  
12 model.

13 So that's the only thing about the model.

14 DR. CROSSON: Okay. I think we're ready to move  
15 on. It sounds like we've got a level of comfort with the  
16 model as it is so far, so let's -- David?

17 DR. NERENZ: Just one very quick question, and  
18 this is a technical detail. In looking at how the model  
19 would be implemented, presumably if it functions like a DRG  
20 sort of model, a patient would be in A group -- not in A  
21 group?

22 DR. CARTER: For sure. We have not developed the

1 classification system. Right now we've looked at groupings  
2 of patients.

3 DR. NERENZ: Yes.

4 DR. CARTER: These could be the classifications.

5 DR. NERENZ: Okay. I'm just trying to figure out  
6 -- let's say you just did a straight multiply  
7 classification, you've got 10 conditions, you've got five  
8 severities or functional levels, you've got three -- if you  
9 just totally combine them all together, it's 150 groups,  
10 which might be fine. I'm just curious where that next step  
11 is as you envision it.

12 DR. CARTER: We haven't -- and certainly for this  
13 report we will not develop what you're talking about, which  
14 is a classification system. And those because of their  
15 clinical coherence -- I mean, I think it's really implement  
16 for a classification system to be clinically coherent so  
17 that you have for each case mix group not a lot of  
18 variation. I do not know that that would really be in our  
19 wheelhouse.

20 DR. NERENZ: Okay.

21 DR. CARTER: So something like this would inform  
22 a classification system, but I don't -- certainly for this

1 report we would not be developing a classification system.

2 DR. NERENZ: Okay. That's fine. And I just  
3 wanted that sense, and that's fine.

4 DR. MILLER: And as you know, this might be  
5 something where CMS goes through the data, gets kind of  
6 lumpy categories, then sits down with clinicians and starts  
7 to get it right.

8 DR. CARTER: And I should say, I mean, there are  
9 PPS's, like the psych PPS isn't a strict -- you know,  
10 there's not a DRG. It's a regression model kind of payment  
11 system. So you wouldn't have to wait for a classification  
12 system to move forward because we have a PPS in place that  
13 is more like this. For each factor that applies to that  
14 patient, payments go up or down.

15 DR. CROSSON: Okay. Good. So we have on the  
16 table, if I've got it correctly -- we've got kind of three  
17 bodies of companion policies. One has to do with managing  
18 costs and utilization, dampening fee-for-service  
19 incentives, including the notion of a post-acute care  
20 manager of some sort. We have issues with respect to how  
21 to monitor and potentially improve the quality of care over  
22 time, and then we have the issue of the regulatory

1 environment. So, rather than divide those, I'd like to  
2 take them all together and ask Commissioners if, as we go  
3 forward with this, we definitely want to look more deeply  
4 at X, Y, or Z.

5 Bill, and then we'll come up this way.

6 MR. GRADISON: With regard to the possible role  
7 of a third-party manager, I would hope that, as you move  
8 forward, you explore the possibility that we may actually  
9 want to create an environment where a new kind of insurance  
10 mechanism got built up there that really may not even exist  
11 today that would go at risk, and let me explain why in just  
12 a sentence or two.

13 I'm increasingly concerned about the financial  
14 burden of it as being put on hospitals in the sense that  
15 they are being dinged, if you will, for readmissions and  
16 potentially other things, and they're probably the first  
17 suspect when we talk about this. Maybe the hospital,  
18 because it is post-acute care, should be at risk with  
19 regard to the expenses that happen further down the line.

20 I think that's a dangerous road. Many hospitals  
21 are not all that well financed to start with, and they're  
22 certainly not very well-equipped on average -- I know there

1 are exceptions -- to be insurers. Furthermore, the  
2 hospitals -- and we have talked about this in other  
3 contexts -- have been busily engaged in building up their  
4 fixed cost by hiring a lot of positions.

5           So I just would be -- I'm not pushing that that  
6 should be the only option, but I do wonder whether we're  
7 creating a situation whether private capital might come in  
8 -- it might be existing insurers or somebody new -- that  
9 might be willing to take this risk on so that the third-  
10 party manager wouldn't just be managing. They would also  
11 be insuring.

12           I hope you explore that thought a bit. Thank  
13 you.

14           DR. CROSSON: Let me see hands, how many people  
15 we've got. Yeah. So let's continue this way. Craig? Did  
16 I miss anybody? And then we'll come down here. Craig?

17           DR. SAMITT: Yeah. I guess I would jump in and  
18 say that I disagree with Bill. I mean, I think we add a  
19 layer of complexity if, yet again, we're going to create  
20 another accountable party, a third party who's going to  
21 manage the post-acute care risk when -- isn't that the  
22 intent of what we're trying to accomplish, either through

1 ACOs or even the discussion we had yesterday about per-  
2 beneficiary payment for primary care? Those are the exact  
3 positions that are very well positioned to look at  
4 utilization, whether it's preadmission, inpatient, or post-  
5 acute. A high-performing clinical practice should be  
6 responsible for post-acute care as well.

7           So I'm not comfortable with the notion of the  
8 creation of yet another layer when I don't think we've  
9 given enough opportunity to see that the layers that  
10 currently exist, when held accountable, can manage this  
11 cost and utilization well.

12           DR. CROSSON: But, Craig, you do generally agree  
13 with the notion of rather than paying one PAC provider at a  
14 time, that some entity managing that prospectively makes  
15 sense?

16           DR. SAMITT: Yeah. And you talked at the  
17 beginning that we're still basing these reimbursements on a  
18 fee-for-service chassis, and if we could shift more to a  
19 bundle, that would be much more effective. I would  
20 absolutely endorse that. I just think that we create a --  
21 when we say pay a third party, are we thinking yet a  
22 different third party than all the parties that exist

1 today? I think we should pay a third party that is already  
2 an existing entity and just amp up the accountability.

3 DR. CROSSON: And so I'm not sure I see a vast  
4 difference between what the two of you are saying. Some of  
5 this is just language.

6 So, when Bill says insurance risk or insurance  
7 entity, as you're talking about carrying risk and managing,  
8 you're really talking about something like that.

9 DR. SAMITT: Except I think that a health system  
10 can be the accountable party. It doesn't have to be yet  
11 another insurance function.

12 DR. CROSSON: Another insurance company.

13 DR. SAMITT: Right, exactly.

14 DR. CROSSON: Okay. All right. Good.

15 Sorry. Rita.

16 DR. REDBERG: Well, I can say Craig said a lot of  
17 really what I was going to say. I have a lot of concern  
18 about adding yet another third party. There are a lot of  
19 third parties, as Craig said, already in the mix, and I  
20 don't think another one is going to add value.

21 And I sort of like to think of it, maybe as Bill  
22 said, with the swing bed. I mean, I think we're talking

1 about site neutral and doing what's best for the payment,  
2 and we heard a lot of work that showed all of the different  
3 facilities don't really -- it's very hard to differentiate  
4 the patients that go to them and the outcomes that come  
5 from them. And I think that's what we need to be  
6 concentrating on, is that making sure our beneficiaries are  
7 getting the right level of care. But I don't think they're  
8 getting it by having different kinds of payment for all  
9 these different facilities, and that's simplifying it in  
10 sort of a bundled payment.

11           And I think if we're tracking outcomes and making  
12 sure that outcomes are high quality, that's the best way to  
13 ensure that we're not getting too much and not getting too  
14 little service because -- and that's what we want, I think,  
15 is to pay for and get the best outcomes for what we're  
16 paying for, which is not what we're doing now.

17           DR. CROSSON: Okay. I'm sorry. Sue, I didn't  
18 see your hand.

19           MS. THOMPSON: Well, Craig and Rita have actually  
20 said much of what I wanted to say, but in the context --  
21 and while anecdotal -- of our Pioneer ACO, this work just  
22 really resonated, and I think there's a lot to be learned

1 around waving the three-day regulation for three-midnight  
2 rule, the homebound criteria qualifying for home care  
3 stays. I couldn't agree more about not adding another  
4 party to involve -- rather, aligning the incentives from a  
5 standpoint of managing a population, I just believe has a  
6 great deal more hope for getting everyone on the same page,  
7 looking for the best outcomes for the patients.

8           The investments that our partners and skilled  
9 made in information technology to be a part of the work we  
10 were doing in the Pioneer was quite amazing, and their  
11 willingness to achieve the Stars rating. So I think once  
12 you align incentives, we can accomplish a great deal.

13           DR. CROSSON: But, Sue, you could see, for  
14 example, the rationale for the Pioneer ACO functioning in  
15 this way as part of it. Yeah. All right.

16           So, again, we're getting a little tied up in the  
17 terminology and language here, but not necessarily saying  
18 that Pioneer ACO is an insurance company, but it has  
19 undertaken a level of risk, which historically was done by  
20 insurers, so okay.

21           Okay. Jack and Mary and Cori.

22           DR. HOADLEY: So I don't know if we're giving

1 more attention to the third-party vendor theme than perhaps  
2 among all the other issues, but I guess the one thing I  
3 would add on that point is -- I mean, what appealed to me  
4 initially when I heard that was that notion that -- and you  
5 reflected some of that in the experience you heard -- is  
6 that it really can become the patients, the beneficiaries,  
7 advocate in helping to think through the choices. And the  
8 more I sort of hear that vendor become financial risk and  
9 some of that, then I don't see it serving that same sort of  
10 beneficiary perspective kind of thing.

11           Maybe there's a simpler kind of role. I almost  
12 think about the kind of navigator role in the ACA exchanges  
13 or something somebody -- and this would have to be more  
14 sophisticated than those are. Those are picking among  
15 insurance plan options. You know, like you said, the kind  
16 of use of data and things, it takes that up a level, but  
17 maybe there's different functions for where the health  
18 system should provide the sort of at-risk or the bundling  
19 kind of thing versus the person who sort of helps that  
20 patient become empowered to make a choice of where they  
21 want to go, understanding some of the financial and  
22 quality-of-care consequences.

1           The other thing I wanted to comment on -- and you  
2 didn't bring this up in the presentation, but you have it  
3 in the paper, was the cost sharing. It is kind of  
4 striking. We've talked about cost sharing lots of times,  
5 and it's kind of striking to put them side by side for  
6 these four types of vendors. In one case, you've got no  
7 cost sharing. In one case, you've got 20 days of none, and  
8 then costs are added. And the other two, you've got  
9 basically 60 days of no cost sharing -- and I think I'm  
10 oversimplifying this slightly -- and then cost sharing  
11 kicks in, depending on whether there's been a prior  
12 hospital stay and all that.

13           Your header for that was need to standardize cost  
14 sharing to reinforce the site neutrality, and that seems  
15 like something that is important to think about. And it  
16 does seem like there's a common side of the four sectors  
17 where you start out your post-acute stay without cost  
18 sharing, and the cost sharing kicks in at some point in  
19 time or in one case doesn't. And I don't have an answer at  
20 this point, but I think thinking about whether that's the  
21 right model of some period of no cost sharing followed by  
22 cost sharing or whether there should be some -- more of a -

1 - if we're thinking of these things in a different kind of  
2 payment model, whether it's more of a one-shot kind of  
3 thing. But I think it would be useful somewhere down this  
4 process to think about what are some of the options or how  
5 that could be structured in a way that doesn't add  
6 unreasonable burden to beneficiary out-of-pocket cost but  
7 does the kinds of things we would normally look for.

8 DR. CROSSON: Mary.

9 DR. NAYLOR: So I just want to reinforce. We've  
10 just come from, I think -- I don't know how many focus  
11 groups with beneficiaries and family caregivers, and the  
12 number one theme, concern, question, comment was around  
13 continuity. As we're addressing, it gets to what everyone  
14 is saying, addressing gaps in systems, of the solutions  
15 have been yet one more care manager, so that the day after  
16 discharge, the payers are calling and the health system is  
17 calling and primary care is calling.

18 So I've gone over this, but I think that it  
19 really speaks to what are the possibilities here to really  
20 think not just about continuity within the context of  
21 movement during the PAC post-acute journey, but also the  
22 connectivity between the acute and post-acute and primary.

1 And so I would really speak to a kind of payment model that  
2 promotes that continuity, whether it's in primary care or  
3 ACOs, but really vesting responsibility for a trusting  
4 relationship with a clinician who can help in decision-  
5 making about whether or not someone is ready to move from  
6 the skilled part to home health or go straight home, not  
7 just to be brokering services, but really engaged in the  
8 whole process.

9           On the continuum of services, I think I'm just a  
10 little concerned about the way we think about some of these  
11 policies, whether or not we think about them both -- not  
12 wanting to prevent skimming or moving people quickly out of  
13 systems, which is one end -- and we have to be concerned  
14 about that -- but the other is to think about ways in which  
15 we can use the policy to really enable movement to match  
16 the right set of services. So I think it's a balance here  
17 as we go forward.

18           I really like moving towards a value-based  
19 purchasing and resource and thinking about the measurement  
20 of what's value in the post-acute and the way that we've  
21 been thinking, about the experience with care and function  
22 and quality of life along with it, because that's what

1 people will tell you matter to them -- and some measure of  
2 continuity.

3 DR. CROSSON: Cori.

4 MS. UCCELLO: So I would like to sign on as a  
5 cosponsor to Jack and Mary's comments on the idea of  
6 finding ways to empower the beneficiaries, to help them in  
7 their decision-making process and how they are guided to  
8 the appropriate facilities. I think that's an area that  
9 really needs a lot of work.

10 And in terms of this third party, to kind of  
11 decide from that issue of taking the beneficiary  
12 perspective, to the extent that this is more trying to,  
13 from a facility perspective and as a financing cost  
14 perspective, is this something that even if we thought it  
15 was a good idea, which it's not clear that we do, but it's  
16 not clear that it would need to be done separately through  
17 a Medicare mechanism, that it could just be done already?  
18 The hospital, if they're vested here in how the patients  
19 that are moved on to the PAC, you could see some  
20 relationships between the hospital and this third party  
21 that help guide those decisions. That could be out of the  
22 scope of Medicare payment policy.

1 DR. MILLER: But, Cori, in that instance, in this  
2 case -- because I think this issue is one we've got to talk  
3 because there's differences of opinion. We're using  
4 different words, "navigators" versus -- and I need to  
5 eventually draw a bead on this.

6 So, right now, if you just went to a unified  
7 payment system, in a sense, what you're doing is -- I've  
8 more rationalized, assuming all the models work out. All  
9 right. I've rationalized how I pay for a given patient,  
10 but you haven't, like Sue was talking about, said, "Now,  
11 collectively, the providers" -- you used a word "bought in"  
12 or, you know -- they aren't necessarily. They are still  
13 paid on a fee-for-service basis, and yet everybody is  
14 saying, "I don't like a third party," which I get. I'm not  
15 taking it on. But somebody needs to coordinate.

16 Now, one way you can get to that -- and I'm  
17 sorry. I'll stop in just a second. One way you can get to  
18 that is to make the payment system truly require alignment  
19 and coordination where you might draw a circle and say,  
20 "I'm paying on an episode now, guys. You guys better get  
21 coordinated," and even there, you'd have to kind of decide  
22 is there a person who is in charge, give somebody the money

1 or not. But in the absence of that, you are at once saying  
2 "I need coordination" as the most concerning thing that any  
3 family talks about, and I hear this all the time too. But  
4 I don't want anybody to enter the picture, or I may not  
5 want anybody to enter the picture. So how do you guys  
6 square that up in your mind?

7 DR. NAYLOR: fee-for-service plus. I mean, you  
8 know, fee-for-service for each of the sectors under a  
9 unified payment with a common base and the case adjustment  
10 and the outliers, all those core elements of the payment  
11 for each of the service, skilled nursing, whatever, but  
12 then some care management, something in a system that's  
13 trying to integrate it.

14 DR. MILLER: But that sounds like another person.  
15 But I cannot hear you, so I want you to say.

16 DR. CROSSON: But I thought what I heard you say,  
17 Mary, was whoever that manager was, we don't want that to  
18 be some extrinsic third party over the telephone. We want  
19 that entity person, risk-bearing entity --

20 DR. NAYLOR: In primary care.

21 DR. CROSSON: -- to be --

22 DR. NAYLOR: In primary care.

1 DR. CROSSON: -- to be --

2 MS. BUTO: How about the model to primary care  
3 physician?

4 DR. CROSSON: Well, just let me finish. To be  
5 intimately involved with the care of the patient so that  
6 there's care coordination as well as management, maybe.

7 DR. NAYLOR: Exactly. Exactly.

8 DR. CROSSON: Sorry. So --

9 MS. BUTO: Why wouldn't that? I mean, remember  
10 yesterday's conversation about the primary care physician  
11 who was taking greater risk from the overall management?

12 DR. CROSSON: Well, that certainly could be or an  
13 ACO.

14 MS. BUTO: You could add. You could add that  
15 element to it.

16 DR. CROSSON: Right, or an APM, whatever that  
17 turns out to be.

18 Cori was still talking, right?

19 [Laughter.]

20 MS. UCCELLO: I think in the --

21 DR. MILLER: Did those guys allow you to sign on?

22 [Laughter.]

1 MS. UCCELLO: They may reject me. I don't know.

2 I think you're right, Mark, that that -- I think  
3 we would prefer to go down Sue's line in drawing a circle  
4 around everything. I think that's where we eventually want  
5 to go. In the meantime, I was almost thinking that, right,  
6 we're still paying on fee-for-service, but there are still  
7 some incentives here. The hospitals have their readmission  
8 penalties, those kinds of outcomes, measures provide some  
9 incentive to make sure that people are going to the right  
10 place post-acute.

11 DR. MILLER: So you might be saying maybe it  
12 doesn't -- and I know other people may have other points of  
13 view, but it doesn't have to necessarily be a designated  
14 person, whether it's an outsider or an insider, to  
15 accommodate Mary's point. Maybe the measure signals are  
16 enough that the actors are going to want to do it because  
17 they don't want to get hit with the readmission penalty or  
18 the -- is that what you're saying?

19 MS. UCCELLO: I think that's what I'm saying, but  
20 I don't -- I would not necessarily say that the measures as  
21 is are going to be strong enough to create these strong  
22 enough incentives. I'm not sure about that, but that's

1 something.

2 DR. CROSSON: So, Cori, you're saying it, but you  
3 don't believe it.

4 MS. UCCELLO: I don't know.

5 [Laughter.]

6 DR. MILLER: And I'm really not trying to bust  
7 your chops. This is -- this is decidedly a tension that I  
8 hear here, and eventually, we're going to have to write to  
9 it, and so I do want you guys to bat this around a little  
10 bit more. And maybe there's not a perfect answer, but I'm  
11 just hearing things --

12 MS. UCCELLO: Well, and part of me was almost  
13 trying to bridge this gap in a way to think about, well, if  
14 there's not something formal, can this just rise up  
15 informally to do that, to do that function, without us  
16 setting up some whole new bureaucracy to do it?

17 Aside from those comments, I just want to add  
18 that I really do want us to focus on the monitoring of  
19 quality, those kinds of things, to make sure we're not  
20 stinting.

21 MR. GRADISON: May I suggest a quick word on  
22 this, just a direct follow-up --

1 DR. CROSSON: Go ahead.

2 MR. GRADISON: Because I sort of stirred this  
3 thing up. I just would hope in the next step that you  
4 would identify what is the risk that -- forget the word  
5 "insurance." That tends to be a bad word to use. But  
6 there's risk, financial risk here in some way that's being  
7 developed, because that's the mechanism, the incentive to  
8 try to get the cost and the quality, improve the  
9 efficiency. Just identify in whatever model you have,  
10 where's the financial risk and what method of assessment  
11 can we use to see whether -- where that risk is going to be  
12 absorbed? I don't care -- I'm happy to have the hospitals  
13 do it. My point was I'm worried about how much risk a  
14 hospital -- whether that's their value-added. I mean,  
15 that's the only other way I can put it. I'm not trying to  
16 say we should build on insurance model -- I mean on  
17 insurance companies, but keep -- forget the word  
18 "insurance." Risk is the question. How much risk are we  
19 talking about? And do we have entities that have a  
20 reasonable potential of being able to handle it? That's  
21 all I was trying to stir up, and otherwise I apologize.

22 [Laughter.]

1 DR. NERENZ: Actually, I think this is an  
2 important discussion. If we could just put up Slide 12,  
3 and I think this is trying to knit some of this together.  
4 When you first showed this, it occurred to me that not only  
5 do you have two entities responsible for the area that  
6 overlaps vertically. There are really five or potentially  
7 five. If in the MIPS environment physicians will now have  
8 a component of efficiency in their evaluations, in a  
9 typical situation like this, you're going to have a primary  
10 care physician who now is in this picture, or has some  
11 financial incentive, you're going to have an admitting  
12 physician, let's say an orthopedic surgeon for hip  
13 replacement. That surgeon is going to be evaluated by what  
14 happens in this overlapping space. And if all this plays  
15 out in an ACO environment, you've got the ACO who cares  
16 about this.

17 So in this scenario, in looking at this area, the  
18 post-acute and maybe immediately after, you could have  
19 right now five players, and when we use the phrase "align  
20 incentives," that's usually taken to have a positive  
21 meaning. But I think inevitably it has this double-edged  
22 sword thing where you have five entities who may share the

1 incentives but disagree completely among themselves about  
2 how to achieve the goals.

3           So mainly to Mary's point, if I'm a beneficiary  
4 in this situation, the one thing I really want to know is  
5 who's in charge and then, better yet, I want to be able to  
6 choose who's in charge. So if, for example, I've made a  
7 formal commitment to a patient-centered medical home,  
8 primary care, I may specifically want that doctor or  
9 perhaps a care coordinator working in there to be in charge  
10 of this. And then where I may carry that is to say I would  
11 actually be willing to formally declare that, have that  
12 entity be responsible formally for the cost, and have the  
13 hospital not responsible and have other entities not  
14 responsible.

15           So I'm actually thinking of sort of pulling away  
16 some of these multiple players with aligned incentives and  
17 from the beneficiary clarity perspective have the  
18 beneficiary able to say, "I want my care at least for this  
19 period of time to be managed by X," or Y, and be able to  
20 choose.

21           DR. HOADLEY: I don't know if this is my  
22 confusion or part of how we're sort of talking about two

1 different -- somewhat two different things, and it seems to  
2 me like one way we're thinking about this is we're  
3 developing a new fee-for-service, comprehensive prospective  
4 payment or whatever the right PAC payment system, and some  
5 of the things we've been talking about are how to -- in a  
6 more site-neutral basis, how to help the patient get into  
7 the right one of those four settings. And the ideal is  
8 taking payment out of the equation as much as we can and  
9 trying to let that decision be made on quality, other kinds  
10 of things.

11           There's another layer to this -- and, well,  
12 within that there's -- a lot of the accountabilities have  
13 to do with some of these, you know, things that Dave was  
14 just talking about, the multiple actors who have some stake  
15 in the outcome. They're not at risk in a broad sense for  
16 the cost of the care. They're at risk in a more narrow  
17 sense of they can be dinged or rewarded based on the  
18 outcome.

19           There's another layer we get to talking about  
20 which is a broader kind of bundling at-risk kind of thing  
21 where it seems like we are thinking about somebody being  
22 more -- and that's what, I think, Bill was sort of picking

1 up on. So either we're thinking the hospital now is  
2 accountable, almost more on that sort of first bar, you  
3 know, accountable for what's going to go on true at risk  
4 where there's, you know, two-sided risk and all that kind  
5 of thing, where you do have to worry some about the  
6 insurance risks, but it doesn't seem like -- I mean, it  
7 seems like those are two different sort of possible ways  
8 that the system could be playing out. If it's the first  
9 one, there's not really an insurance risk involved.  
10 There's a bunch of risks -- "accountability," I kind of  
11 like the word better -- and then what we're trying to do is  
12 create a means to help the patient get in the right place.  
13 That function would still exist in the other system, but  
14 now you're either in a broader ACO or you're in a hospital  
15 that's accountable for a broader bundle of care kind of  
16 situation, and it just seems like we should sort those out  
17 and maybe that helps to be where some of the sort of two  
18 ways of thinking comes out.

19           The other thing I would say is for some of these  
20 options within either of those ways of looking at it, we  
21 may just need to lay out, okay, who could it be, and I like  
22 the idea that in some cases these more empowered primary

1 care providers could play this role, in some cases an ACO  
2 could play this role, in some cases the hospital discharge  
3 planning kind of function. I mean, they'd do that in a  
4 much more narrow way today. There might be other third-  
5 party vendors, and maybe just sort of seeing them all side  
6 by side would help us sort of think through what are the  
7 pros and cons of some of those ways to help with the  
8 placement. I'm thinking about, I guess, more in the less  
9 at risk kind of first way I talked about it. I don't know  
10 if that's helpful.

11 DR. CROSSON: It is helpful, Jack, and I think  
12 you could also imagine over time the entities, you know,  
13 evolving from the first level you described, which has a  
14 benefit to the patients and to the non-system itself, but  
15 eventually having the capability to then take on some  
16 global payment risk and do that. But what I'm hearing here  
17 is -- and people are using different words, as Mark said,  
18 but I'm hearing that there's a thought that there's  
19 something valuable in this, but what people don't want to  
20 do is parachute in another 1-800, you know, kind of entity,  
21 you know, from outside, you know, being paid a bounty for  
22 managing the cost. That's not an added value.

1           But, nevertheless, from the perspective of  
2    coordinating for the patient, improving outcomes  
3    potentially, but then also, which is one of the three  
4    things we're looking at, potentially, you know, for the  
5    program, managing the appropriateness of services and the  
6    appropriateness of site of service that there's a value to  
7    this. And I think that's sort of where it is. It's not --  
8    I don't know, are you ready to work with that or --

9           DR. MILLER: Yeah, and it looks like Kathy wants  
10   to get in, but what I would say as a result of this  
11   conversation is I would -- and since I don't have to do  
12   this, it's going to be easy.

13          DR. CROSSON: I don't have to do it either.

14          DR. MILLER: But I will pay for it. I can tell  
15   that.

16          [Laughter.]

17          DR. MILLER: So what I would do, if I had to  
18   write this up at this point, is I would describe a  
19   continuum. One can think of this in the most narrow sense,  
20   and I may not get all this right, so just give me a break  
21   here. You know, you might want a navigator present to help  
22   the patient find their way through the system. Frankly, I

1 mean, you could want that right now as a matter of fact.  
2 And you could talk a little bit about who that might be.  
3 Then, you know, you can talk about different continuums of  
4 responsibility comprised of actors in the system. There's  
5 sort of the -- I'm going to label it as the "Cori Concept."  
6 You don't need to be directive. You could just have the  
7 measures and that will tend to move people perhaps. That  
8 could be part of this continuum. To the very extreme of --  
9 I don't think it could have been put more prejudiced of  
10 parachuting a bounty hunter in.

11 [Laughter.]

12 DR. MILLER: We'll describe it differently. But,  
13 you know, to get the continuum and allow the reader and the  
14 Commissioners to see what we've tried to say here, and  
15 then, you know, we'll put that in front of you, and then  
16 make sure that we sort of argue, I think I'm hearing, more  
17 to the left-hand side of that continuum than the right-hand  
18 side of that continuum. So if I had to do this, that's  
19 what I would probably do.

20 DR. CROSSON: And you would be right.

21 DR. MILLER: Kathy would change all that.

22 MS. BUTO: Mark is always right. So I would just

1 -- I like the way Mark just framed that. I jumped to the  
2 end of the paper and looked at the thinking that went  
3 behind, you know, maybe what we need to be evolving toward  
4 is uniform standards and criteria. If you imagine a world  
5 like that, that would be on the far end. Then it becomes  
6 really a choice between home health and institutional. And  
7 then the choices are driven more by -- because payment  
8 shouldn't be driving it anymore. It should be driven more  
9 by quality scores, resource use, you know, other measures  
10 of goodness or quality or whatever.

11           So I think on that continuum, you could imagine  
12 if we ever got to that point -- and I guess I do ask the  
13 question: Is there any rationale to have different  
14 institutional providers? And we probably should talk about  
15 that at some point, because if there is, then we'll never  
16 get to that state. But if that's where you end up, then  
17 you don't need a big navigator function at that point.  
18 What you need is some help with the quality scores, and is  
19 this person homebound and needs to be at home, versus would  
20 do better in an institution. So your choices then don't  
21 become so muddled, it seems to me. But I don't know if  
22 we're there yet. It is suggested, and it made me think

1 about the choices get simpler once you get to that point.

2 DR. BAICKER: So just to layer another axis on

3 Mark the Bounty Hunter's continuum --

4 DR. MILLER: That came out of him.

5 [Laughter.]

6 DR. BAICKER: So you can imagine on one end a  
7 payment structure that is driving patients towards higher-  
8 value sites of care, regardless of whether that's the right  
9 site for them, and on the other end, payments that are  
10 driving patients towards the right site of care for them  
11 that gives them -- achieves a quality benchmark at the  
12 lowest price possible. And the site-neutral payments that  
13 we're working towards with this would remove the push  
14 towards the more expensive care, regardless of whether it's  
15 appropriate. And then kind of -- and I think we're all  
16 agreed we don't want to be pushing people there. Being  
17 completely neutral doesn't -- lets patients sort out  
18 independent of the payment, but it doesn't guarantee that  
19 they end up in the right site. And now we're talking about  
20 is there a way to actually push towards a system that is  
21 predisposed to putting patients in the right site, not just  
22 neutral about which site they go to. And there are a

1 couple of different levers that we're talking about. You  
2 can be activist about it and pay somebody to coordinate  
3 and, you know, align payment incentives for somebody who's  
4 not an individual site to get people into the right site.  
5 Or you could have a payment structure that is about the  
6 efficient site of delivery where it's just not going to be  
7 cost-effective to treat a patient in a really expensive  
8 site of care if it's not appropriate for that site of care,  
9 and in some of the other models we see, like, you know,  
10 shared savings in ACOs or things like that. We're kind of  
11 trying to line up the incentives and letting the providers  
12 sort it out amongst themselves if the incentives are lined  
13 up. And we're not there yet with this post-acute care, how  
14 to get from neutral to promoting efficient use, and that's  
15 I think what we're struggling with. But the first step in  
16 saying we're at least not going to be pushing people into  
17 the expensive sites is a more clear-cut step in the right  
18 direction, and then how that plays out as we get more data,  
19 I think we'll get more information about how well that  
20 performs in sorting patients out and what additional levers  
21 might be necessary to get to the other end of the  
22 continuum.

1 DR. CROSSON: Thanks. Very helpful and  
2 penultimate comment. Rita?

3 DR. REDBERG: I just wanted to build a little bit  
4 on where Kate left off, because I agree, I think the site-  
5 neutral kind of payment -- and, of course, I would just  
6 suggest the way to work towards better outcomes and making  
7 sure that patients are in the right place is just -- as you  
8 said, we need more data and sort of a tracking, you know, a  
9 learning health care system where, you know, we are -- we  
10 have perhaps an electronic health record, some way of  
11 understanding what patients went into what kind of settings  
12 post-acute care and how they did, and then we can  
13 continuously learn and, you know, refine the model as  
14 you're doing so that we know what characteristics and what  
15 kind of care patients need and how they do better.

16 But, again, you know, having it tracked on  
17 outcomes and not on, well, they went to an IRF or a SNF and  
18 we're going to pay for that, but having a more site-neutral  
19 and adjusting the level of service to what patients need  
20 and how they'll do better as opposed to a payment.

21 DR. CROSSON: Okay. I think this has been a good  
22 discussion. I'm not going to attempt to sum up because I

1 think Mark, Kate, and several others have done a pretty  
2 good job summing up already, and I hope, Carol and Dana,  
3 that you've gotten some good information from this, and we  
4 look forward to seeing you again. Thank you very much.

5 [Pause.]

6 DR. CROSSON: Okay. I think we're ready to go  
7 for the last presentation and discussion for the November  
8 meeting. We're going to have a discussion about dual-  
9 eligible beneficiaries. This is a status report, but it  
10 also is, I think, a setup discussion to help the staff in  
11 what is going to be a series of site visits next year into  
12 Medicare demo sites, so that in the next term, we can come  
13 back in more detail, informed with the knowledge base  
14 that's being created.

15 So, Eric, you're going to take us through this  
16 presentation? It's all yours.

17 MR. ROLLINS: Thank you.

18 Good morning. Today I'm going to give you an  
19 update on our work on individuals who receive both Medicare  
20 and Medicaid benefits. These people are commonly referred  
21 to as "dual-eligible beneficiaries."

22 I'd like to start by giving you a quick overview

1 of the presentation. I'll begin by briefly reviewing the  
2 dual-eligible population, touching on such issues as how  
3 people become dual eligibles, and how their health and  
4 Medicare costs compare to other beneficiaries.

5 After that, I'll recap some of the work that the  
6 Commission has done in recent years that directly affects  
7 dual eligibles. I'll then review the role of the Medicare  
8 Savings Programs, or MSPs, and present some illustrative  
9 scenarios for expanding them.

10 I'll conclude by reviewing the demonstration  
11 projects that CMS has approved for the dual eligibles and  
12 outlining our plans to prepare a status report on them. We  
13 plan to present this update to the Commission in the  
14 spring.

15 Moving now to slide 3, there were almost 10  
16 million dual eligibles in 2014. They are commonly divided  
17 into two groups -- full-benefit duals and partial-benefits  
18 duals -- based on the type of Medicaid benefits that they  
19 receive.

20 Full-benefit dual eligibles typically qualify for  
21 a wide range of primary and acute care services, as well as  
22 various kinds of long-term services and supports, such as

1 nursing home care.

2           In contrast, partial-benefit dual eligibles only  
3 receive assistance with Medicare premiums and, in some  
4 cases, cost sharing.

5           To become a dual eligible, you must separately  
6 qualify for both Medicare and Medicaid. About half of dual  
7 eligibles originally qualified for Medicare due to  
8 disability, which is a much higher rate than for the  
9 overall Medicare population. On the Medicaid side, about  
10 half of the full-benefit duals qualify because they are  
11 eligible for Supplemental Security Income benefits.

12           Partial-benefit duals qualify through the MSPs,  
13 which I will discuss in more detail later in this  
14 presentation.

15           The next slide provides some high-level  
16 characteristics for the dual eligibles. As a group, they  
17 are much more likely than other Medicare beneficiaries to  
18 suffer from multiple chronic conditions. They are also  
19 more likely to have some type of mental illness. For  
20 example, 18 percent of dual eligibles have Alzheimer's  
21 disease or some related form of dementia. They are also  
22 much more likely than other Medicare beneficiaries to

1 report that they are in poor health. As a result, Medicare  
2 per-capita spending for dual eligibles is about twice as  
3 high as it is for other beneficiaries.

4 Overall, the dual eligibles account a  
5 disproportionate share of total spending in both the  
6 Medicare and Medicaid programs. In 2010, they accounted  
7 for 34 percent of total spending in each program, even  
8 though they only represented about 20 percent of Medicare  
9 enrollment and 14 percent of Medicaid enrollment

10 Now I'd like to briefly review some of the work  
11 that the Commission has done in recent years that relates  
12 directly to the dual eligibles.

13 Broadly speaking, the Commission's work has been  
14 driven by two key areas of interest. The first area has  
15 been the eligibility rules that define the dual-eligible  
16 population and the roles that Medicare and Medicaid should  
17 play in paying for their care.

18 In 2008, the Commission examined the Medicare  
19 Savings Programs and recommended raising the MSP  
20 eligibility limit to match the Part D low-income subsidy,  
21 which would increase the number of partial-benefit dual  
22 eligibles.

1           In 2012, the Commission recommended a number of  
2 changes to Medicare's benefit design, such as adding an  
3 annual cap on out-of-pocket spending and combining the Part  
4 A and Part B deductibles. These changes were designed so  
5 that the aggregate cost-sharing liability for all Medicare  
6 beneficiaries would remain the same. However, the cost  
7 sharing for individual beneficiaries could rise or fall,  
8 depending on their circumstances.

9           These changes to the benefit design would affect  
10 Medicaid because it often pays for cost sharing for dual  
11 eligibles. The changes could also spur interest in  
12 expanding the MSPs because cost sharing would increase for  
13 some beneficiaries who have relatively low income but  
14 currently do not qualify for assistance.

15           The second area of interest for the Commission  
16 has been developing or expanding the use of new models of  
17 care for the dual eligibles that could reduce costs or  
18 improve the quality of care. Many of those models involve  
19 the greater use of managed care.

20           In 2012, the Commission made recommendations to  
21 expand the use of the PACE program, which serves people who  
22 are 55 or older and need nursing home care. The program's

1 goal is to serve those beneficiaries in the community and  
2 keep them out of nursing homes, and most of its enrollees  
3 are dual eligibles.

4           In 2013, the Commission examined Medicare  
5 Advantage Special Needs Plans, which serve three types of  
6 beneficiaries with special needs: dual eligibles, those  
7 living in institutions such as nursing homes, and those  
8 with certain chronic conditions. The Commission concluded  
9 that, in certain cases, SNPs were one way to better  
10 integrate care for beneficiaries.

11           In the next several slides, I am going to focus  
12 on the first area of interest by reviewing the Medicare  
13 Savings Programs and discussing the potential implications  
14 of changing their eligibility rules and financing. After  
15 that, I'll turn to the second area of interest and discuss  
16 the demonstration projects that CMS is now conducting for  
17 dual eligibles.

18           Under the Medicare Savings Programs, state  
19 Medicaid programs are required to pay for Medicare premiums  
20 and, in some cases, cost sharing to certain groups of low-  
21 income beneficiaries. This slide shows the eligibility  
22 limits and benefits for the MSPs and includes information

1 for the Part D low-income subsidy for comparison.

2           As you can see, the benefits provided by the MSPs  
3 vary by income. The poorest beneficiaries, those with  
4 income below the poverty level, are covered by the  
5 Qualified Medicare Beneficiary, or QMB program. This is  
6 the most generous MSP, covering Part A and Part B premiums  
7 and cost sharing.

8           The other two MSPs -- the Specified Low-Income  
9 Medicare Beneficiary, or SLMB program, and the Qualifying  
10 Individual, or QI program -- provide assistance with the  
11 Part B premium to beneficiaries with income between 100 and  
12 135 percent of the poverty level.

13           The costs of the QMB and SLMB programs are  
14 divided between the federal government and the states,  
15 while the costs of the QI program are paid entirely by the  
16 federal government.

17           By comparison, the Part D LIS has a higher  
18 eligibility limit, which you can see in the column farthest  
19 to the right. The LIS covers beneficiaries with income up  
20 to 150 percent of the poverty level, compared to the MSP  
21 cutoff of 135 percent. However, the LIS does provide less  
22 generous assistance for beneficiaries in that final income

1 range of 135 to 150 percent.

2           Finally, it's not shown on this table, but the  
3 MSPs and the LIS also require beneficiaries to have assets,  
4 such as bank accounts, below a certain level in order to  
5 qualify for benefits. However, the LIS asset limit is  
6 higher than the limit used for the MSPs.

7           Moving on now to slide 7, there are some key  
8 issues to keep in mind when considering the role of the  
9 MSPs.

10           First, research has found that many beneficiaries  
11 who qualify do not participate due to factors such as a  
12 lack of awareness that the programs exist and the  
13 difficulty of applying for assistance.

14           When the Commission examined this issue in 2008,  
15 it found that the low participation rates were partly due  
16 to the fact that the eligibility rules for the MSPs and the  
17 LIS differ, as we saw on the previous slide.

18           Second, there are also important differences in  
19 how people sign up for the two programs. Beneficiaries  
20 apply for the MSPs through their state's Medicaid program,  
21 and those who qualify are automatically enrolled in the  
22 LIS. In contrast, beneficiaries apply for the LIS through

1 the Social Security Administration. The SSA does not  
2 screen those applicants for MSP eligibility, even though  
3 many are likely eligible.

4 Third, Medicaid allows states to limit how much  
5 cost sharing they pay for beneficiaries enrolled in the QMB  
6 program. States do this through what are known as lesser-  
7 of policies, which use the lower of the Medicare rate or  
8 the state's Medicaid rate to determine how much cost  
9 sharing will be paid for a given service. Most states use  
10 lesser-of policies for at least some services.

11 In addition, when states limit their payment of  
12 cost sharing, providers cannot bill QMBs for the remaining  
13 unpaid amount, so lesser-of policies ultimately reduce  
14 their overall payments.

15 Finally, research also indicates that the use of  
16 lesser-of policies may reduce access to care for QMBs.

17 A variety of researchers and advocates have  
18 proposed expanding or federalizing the MSPs to achieve  
19 goals like increasing participation rates or providing  
20 fiscal relief to states.

21 To give the Commission a better sense of the  
22 issues involved, staff developed three scenarios to

1 demonstrate the effects that expanding the MSPs could have  
2 on participation rates, federal spending, and state  
3 spending. These scenarios are purely illustrative and not  
4 a substitute for the budgetary estimates that CBO produces  
5 for Congress.

6           Each scenario would align the eligibility rules  
7 for the MSPs with the Part D low-income subsidy. This  
8 means that the income limit for MSP benefits would be  
9 increased from 135 percent of the poverty level to 150  
10 percent and that the asset limit for the MSPs would be  
11 increased as well. Since the MSPs and the LIS would have  
12 the same eligibility rules, all three scenarios also assume  
13 that the SSA would be required to screen applicants for  
14 both MSP and LIS eligibility, and would enroll those who  
15 qualify in both programs.

16           The first scenario repeats a recommendation that  
17 the Commission made in 2008. The eligibility limit for the  
18 Qualifying Individual program, which provides assistance  
19 with the Part B premium, would be raised from 135 percent  
20 of the poverty level to 150 percent. The cost of the  
21 assistance for these newly eligible beneficiaries would be  
22 paid for entirely by the federal government.

1 Under the second scenario, the eligibility limit  
2 for the QMB program, which provides assistance with Part A  
3 and B premiums and cost sharing, would be raised from 100  
4 percent of the poverty level to 150 percent. The costs of  
5 the program would be paid partly by the federal government  
6 and partly by the states, and states would be able to use  
7 lesser-of policies to limit their payments for cost  
8 sharing.

9 The third scenario is the most far-reaching.  
10 Like the second scenario, the eligibility limit for the QMB  
11 program would be raised to 150 percent of the poverty  
12 level; however, the program would be federalized and become  
13 part of Medicare, which would pay the full amount of cost  
14 sharing for those enrolled. The costs of fully covering  
15 the cost sharing would be partly offset by lower spending  
16 on bad debt payments.

17 Finally, states would also be required to make  
18 maintenance-of-effort payments to the federal government  
19 based on their historical MSP spending. These would be  
20 similar to the so-called clawback payments that states now  
21 make under Part D.

22 The next slide summarizes the impact of these

1 three options on MSP participation and combined federal and  
2 state spending. For more detailed information about our  
3 estimates, please refer back to table 4 in the paper.

4 We estimate that all three scenarios would  
5 increase the number of people enrolled in the MSPs by  
6 roughly 2 to 2.5 million people. Most of the new  
7 enrollees, about 1.4 million, would be people who now  
8 receive LIS benefits but are not enrolled in an MSP. The  
9 other 500,000 to 1 million people would be truly new  
10 participants that currently do not participate in either  
11 the MSPs or the LIS. We also anticipate that MSP  
12 participation rates would be higher under each scenario  
13 than they are now.

14 As for the 10-year costs, we estimate that total  
15 spending would increase by \$46 billion under the first  
16 scenario, \$111 billion under the second scenario, and \$296  
17 billion under the third scenario.

18 Under the first scenario, the increase in state  
19 spending, which is not shown on the slide, would be  
20 relatively small because the federal government would pay  
21 the full cost of expanding the QI program.

22 The costs of the second scenario would be more

1 than two times higher because the second scenario would  
2 also provide assistance with cost sharing for beneficiaries  
3 with income between 100 and 150 percent of the poverty  
4 level. This would lead to higher costs for the existing  
5 MSP enrollees in that income range, and we anticipate that  
6 the more generous assistance would also result in more new  
7 enrollees. However, the MSPs would continue to be funded  
8 by both the federal government and the states, and states  
9 could still limit how much they pay for cost sharing. We  
10 believe that many states would continue to do this, which  
11 would reduce the cost of the second scenario.

12           Like the second scenario, the third scenario  
13 would expand assistance with cost sharing, but the MSPs  
14 would be federalized, and Medicare would pay the full  
15 amount of cost sharing. We believe that, in aggregate,  
16 states now pay about 35 percent of the cost sharing for  
17 QMBs, and it's the cost of covering the other 65 percent  
18 that accounts for the difference in costs between the  
19 second and third scenarios.

20           More than half of the cost of the third scenario  
21 would be additional spending for people who are already  
22 enrolled in the MSPs, as opposed to new enrollees. I

1 should also note that savings from lower bad debt payments  
2 have been included in the estimate for this scenario.

3 States would normally see significant savings  
4 from federalizing the MSPs, but we assumed that they would  
5 be required to make maintenance-of-effort payments that  
6 would effectively eliminate any savings. Without such a  
7 requirement, the total costs for the third scenario would  
8 not change, but federal costs and state savings would be  
9 much higher.

10 Although a maintenance-of-effort requirement  
11 would partly offset the costs of federalizing the MSPs, it  
12 would also create inequities across states. This slide  
13 provides figures for two states as an example. The figures  
14 shown here have been rounded for ease of presentation, but  
15 they're based on actual data.

16 In 2012, the total amount of cost sharing for  
17 QMBs in the two states was roughly the same, at about \$100  
18 million. Neither state covered the full amount of the  
19 cost sharing, but state A paid a much larger share, about  
20 70 cents on the dollar, on average, than State B, which  
21 paid an average of about 35 cents on the dollar. Given  
22 each state's Medicaid match rate, those payments translated

1 into about \$22 million in state spending for state A and  
2 about \$13 million for state B.

3 Those state spending amounts would be the basis for the  
4 maintenance-of-effort payments under our third scenario,  
5 which means that state A would make larger MOE payments  
6 than state B. However, state B stands to benefit more  
7 under the scenario, as Medicare provides \$65 million in  
8 additional funds to providers in that state, compared to  
9 only \$30 million for providers in state A.

10           The next slide, slide 11, summarizes some  
11 findings from these illustrative scenarios. First, the  
12 number of new MSP enrollees under each scenario would be  
13 relatively small, which is due partly to the difficulties  
14 involved in getting more people to participate.

15           The second scenario would expand eligibility for  
16 assistance with cost sharing, as well as the Part B  
17 premium; however, the existing structure of the MSPs would  
18 be largely unchanged. This would reduce federal costs in  
19 two ways. First, states would pay part of the cost of  
20 expanding the MSPs, and second, states would continue to  
21 use lesser-of policies to limit their spending on cost  
22 sharing.

1           Finally, the third scenario, expanding  
2 eligibility for assistance with both premiums and cost  
3 sharing, and federalizing the QMB program, would be the  
4 most expensive. This is largely because Medicare would pay  
5 the full amount of cost sharing and would thus bear costs  
6 that the states have chosen not to pay.

7           Requiring states to make maintenance-of-effort  
8 payments could offset some of the costs of federalizing the  
9 MSPs, but it would also lead to lower savings for states  
10 and create inequities across states.

11           I'd like to note that this list is not  
12 exhaustive. There are a number of other issues that would  
13 need to be addressed as part of expanding the MSPs,  
14 particularly as part of federalizing the program; however,  
15 these kinds of proposals aren't being widely considered  
16 right now. If anything, policymakers are more focused  
17 right now on initiatives that in some ways give states a  
18 greater role in caring for the dual eligibles.

19           With that, I'll now turn back to the Commission's  
20 other key area of interest for the dual eligibles, which is  
21 the development of new models of care.

22           In 2011, CMS launched what it calls the Financial

1 Alignment Initiative, which encourages states to test new  
2 methods of integrating care for full-benefit dual  
3 eligibles. Under the initiative, states can conduct  
4 demonstration projects that test two different models. The  
5 first is the capitated model, which uses managed care plans  
6 to deliver both Medicare and Medicaid services to dual  
7 eligibles. The second is called the managed fee-for-  
8 service model. Under this model, states can provide  
9 greater care coordination through their Medicaid fee-for-  
10 service programs and can receive a portion of any resulting  
11 Medicare savings.

12           The first demonstration project approved as part  
13 of the initiative is in Massachusetts and began operation  
14 in October of 2013.

15           A total of 13 states are currently conducting  
16 demonstration projects under the initiative. Most of those  
17 states are testing the capitated model. Only two states,  
18 Colorado and Washington, are testing the managed fee-for-  
19 service model. Another state, Minnesota, is testing an  
20 alternate model that integrates some administrative  
21 functions for plans that serve dual eligibles. As of last  
22 month, about 450,000 dual eligibles were enrolled in these

1 demonstrations.

2           Turning now to the last slide, staff are planning  
3 to deliver a status report on the demonstration projects to  
4 the Commission in the spring of next year. As part of this  
5 effort, we will make site visits to several states with  
6 demonstration projects and will examine a broad range of  
7 issues, such as the use of passive enrollment, the kinds of  
8 care coordination that plans and states are providing, the  
9 impact of those efforts on service use and spending, and  
10 the adequacy of the rates that CMS and states are using to  
11 pay participating plans.

12           Given the wide range of issues that are involved  
13 with these demonstration projects, we would welcome input  
14 from the Commissioners about specific topics that they  
15 would like us to address in the status report.

16           That concludes my presentation. I will now be  
17 happy to take your questions.

18           DR. CROSSON: Okay, Eric. Thank you very much.

19           So we're open for clarifying questions. Kate,  
20 Jack.

21           Jon, would you do this?

22           DR. BAICKER: So this was really helpful. Thank

1 you.

2           And I was interested in the scenarios for  
3 expanding dual-eligible coverage. You accounted for a  
4 couple of different mechanisms, and I wasn't sure about a  
5 couple of additional mechanisms. So you accounted for new  
6 people signing up. You accounted for -- or new people  
7 being eligible for the MSP programs. You accounted for  
8 increased federal share of the existing people who were  
9 already on the programs. Did you build in a change in use  
10 of services because of the additional coverage for both the  
11 new and the existing people, which seems like it could be  
12 potentially big? And then a fourth one, which seems like  
13 it probably isn't so big, which is the different marginal  
14 characteristics of the new enrollees, meaning they're  
15 different kinds of utilizers, although it sounds like there  
16 aren't so many new enrollees, so that's probably smaller.

17           MR. ROLLINS: So, in terms of service use, I  
18 think, directionally, we think that enrolling more people  
19 in MSPs would tend to increase their service use. We  
20 didn't explicitly account for that here. Dealing with --  
21 figuring out what the magnitude of that increase is  
22 requires you to have some notion of what their coverage

1 situation looked like before they enrolled in the MSPs. If  
2 they truly had no coverage or were otherwise uninsured,  
3 then I think, clearly, yes, their service use would go up.

4 But, for example, to the extent that people are  
5 moving out of MediGap plans, which now currently provide  
6 this, essentially, level of coverage now and into this, the  
7 impact may be less significant.

8 DR. HOADLEY: So I had two clarifying questions.  
9 On slide 10, you talked about, in the last bullet, the  
10 state would have a larger MOE payment, state A, but state B  
11 benefits more. And here, you're talking it benefits sort  
12 of broadly to the state and its medical system, not to the  
13 state budget. Is that right?

14 MR. ROLLINS: That's correct.

15 DR. HOADLEY: Okay.

16 DR. MILLER: It's really the providers in each  
17 state.

18 DR. HOADLEY: Yeah, the providers in the state.

19 And then my other question is a little more  
20 general, which is, how good are the data at this point on  
21 the number of people who are eligible today but not  
22 enrolled? I know on Part D LIS, we struggled to get sort

1 of a good denominator of how many are eligible, and I know  
2 that's -- I think that's been a struggle here as well, but  
3 I wondered sort of your assessment of the data.

4           And then related to that, when you talked about  
5 higher -- in your scenarios, when you talk about higher  
6 participation, are you assuming any increase in enrollment  
7 among the eligible today but not enrolled, as opposed to  
8 the newly eligible?

9           MR. ROLLINS: So, in terms of the quality of  
10 data, it has been a struggle. I would say that it  
11 continues to be a struggle. There's simply no data source  
12 that everyone seems to feel comfortable with that has a  
13 picture of both income and, in particular, asset  
14 eligibility for these individuals. And for all of these  
15 scenarios, we assume that both of those criteria would  
16 still be in play. So that's a data problem. As you noted,  
17 it's been around for a while, and I'm not aware of anything  
18 that's going to help us definitively resolve it.

19           In terms of -- your second question was? Remind  
20 me.

21           DR. HOADLEY: Whether you're assuming any  
22 increase in enrollment by the currently eligible but not

1 enrolled.

2 MR. ROLLINS: We did for the second and third  
3 scenarios because for people in that 100 to 135 percent  
4 range, right now they're eligible just for assistance with  
5 their Part B premium. We would anticipate that if you also  
6 made them eligible for assistance with cost sharing as  
7 well, that's a better benefit package, and so some of the  
8 people who are now eligible but not enrolled will sign up.

9 DR. HOADLEY: Okay. Thank you.

10 DR. CHRISTIANSON: Cori, did you have anything?

11 [Speaking off microphone.]

12 DR. CHRISTIANSON: Alice.

13 DR. COOMBS: Just quickly, just the impact --  
14 because I'm interested in the Massachusetts Demonstration  
15 Project and what the outcome of that is because I've spoken  
16 to a couple of people in the state office who told me what  
17 they're doing, which is really interesting in terms of  
18 trying to work the two systems together.

19 What about the impact of ACA with some of the  
20 other states and expansion in the scenarios? In other  
21 words, how do they impact the scenarios?

22 MR. ROLLINS: In terms of the Medicaid expansions

1 or the marketplace with the exchanges?

2 DR. COOMBS: Well, in terms of the Medicaid --

3 MR. ROLLINS: The Medicaid expansion targets a  
4 different population than what would be effective here for  
5 the dual-eligibles. The Medicaid expansion was essentially  
6 for people who are not aged or disabled and have income  
7 below 138 percent of the poverty level, so it's a different  
8 subset than the folks that we're talking about.

9 DR. COOMBS: So there's no overlap between the  
10 purely disabled who become a part of the Medicaid  
11 expansion? Is there not an overlap?

12 MR. ROLLINS: No, there's not an overlap, but the  
13 eligibility rules for the aged and disabled were not  
14 affected by the Affordable Care Act.

15 DR. CHRISTIANSON: So, Jack, you were going to  
16 kick off the next round?

17 DR. HOADLEY: Yeah. And thanks, Eric. I mean,  
18 this was really helpful going through a lot of very  
19 complicated stuff.

20 It seemed like -- and I'll make comments on both,  
21 the sort of eligibility and financing stuff, and then the  
22 new models and some issues you might look at on the site

1 visits.

2           It seems to me like I hear sort of three major  
3 sort of reasons to make some kinds of changes or issues  
4 that have arisen in terms of the eligibility and financing  
5 aspects. One is this notion that the participation rate is  
6 lower than we would like it to be and particularly for the  
7 MSP side. And it seems like there is a number of things --  
8 and you talked about several of these -- the complexity of  
9 the rules, people's awareness that there is a benefit out  
10 there. I would also add that just the existence of an  
11 asset test, which partly because it adds sort of  
12 complexity, adds a little bit of stigma, and sometimes we  
13 think it will just scare people away because they don't  
14 want to get into a discussion with government officials  
15 about what assets they hold. And so that's one issue that  
16 we could see some improvement on.

17           The second is just the ability to provide broader  
18 help or more help to a broader set of people, and that's  
19 the notion of providing cost-sharing assistance further up  
20 the income ladder.

21           And then the third, I think -- and you talked  
22 about this as well -- is just the inconsistencies across

1 states and how they interpret policies and how they  
2 implement policies. I've looked at some of this stuff on  
3 eligibility, and you see a few sort of large differences  
4 where there's at least three states that completely  
5 eliminate the asset requirement, so that's a broadening of  
6 eligibility. That's sort of easy to understand. But where  
7 you get into the really detailed complexity is which kinds  
8 of income are offset, what kind of assets are offset, and  
9 I've had a project where I needed to look at some of the  
10 differentiations. And it is very hard to figure out,  
11 "Okay. So does this little source of income count?" And  
12 there's no federal standard on those kinds of things, so  
13 that makes something like the federalization scenario  
14 certainly have some appeal.

15           And then, again, you talked about this in terms  
16 of the lesser-of policies and how the cost sharing is  
17 covered, and that has an impact not only on access, but  
18 also on sort of providers' ability to cover their costs.

19           And lately, there have been some issues around  
20 balanced billing. There have been providers who have sent  
21 -- who have billed beneficiaries. As you've said,  
22 correctly, they're not allowed to do that, but there have

1 been instances where that's been happening lately, and  
2 there's been attempts to enforce some crackdown and make  
3 sure that doesn't happen. But it's sort of created like  
4 this.

5 I don't know whether this is the kind of area.  
6 Obviously, in your three scenarios, scenario 1 is one where  
7 the Commission has already spoken and said something either  
8 identical to scenario 1 or something very close to it is in  
9 current Commission recommendations. I think there would be  
10 value in going beyond that, certainly reinforcing and  
11 restating that, those old recommendations, as we have done  
12 before, but potentially going beyond it to some of the  
13 other levels, obviously, there's a big leap when you get to  
14 scenario 3 in terms of the cost.

15 But I think, you know, trying to think about how  
16 to simplify eligibility, how to create more of a level  
17 playing field across different states, on the other hand,  
18 not wanting to take away where certain states have made  
19 much more generous rules and decided, using their own  
20 funds, to make eligibility -- partly their own funds, make  
21 eligibility more generous, wanting to affect that, but I  
22 think some of the detail where states differ is having a

1 negative impact, both on beneficiaries and in the case of  
2 loss are on -- on the providers.

3 I think on the other side of the issue, on the  
4 new models, I'll give you a few suggestions of things, and  
5 I've taken a look at one of the financial alignment  
6 demonstrations in Virginia. And I know the Commission has  
7 in its comment letter on these, has raised issues around  
8 the past of enrollment, and I think one of the things you  
9 can potentially see in the states is how that's played out.

10 I know in Virginia, there was issues around sort  
11 of their ability to do an intelligent assignment process,  
12 which they intended to do, and most states that have these  
13 programs do intend to do, but they have ran into some  
14 severe data issues and getting the data they needed from  
15 CMS to do it the way they originally wanted to do it.

16 And then opt-out rates have been a big issue.  
17 Anybody who has looked at these at all has seen the high  
18 level of opt-outs and trying to understand what -- some of  
19 that seems to be provider driven, and so just trying to get  
20 a better sense from the states that you talked to about  
21 sort of what they think is going on with those opt-out  
22 rates.

1           Another issue that I've thought about lately is  
2 sort of -- this is a time-limited demonstration, and it's  
3 actually not for all that long a period of time. So states  
4 spend a lot of time ramping this up, getting -- going  
5 through a lot of challenges and implementing, and then the  
6 demo is going to come to an end, and sort of how states are  
7 thinking about -- sort of doing something -- you know, how  
8 they're doing something if they feel like they've made some  
9 progress, does that go away? Do they have ability to sort  
10 of keep it going beyond the life of the demo? In other  
11 cases, you've got states that are doing other kinds of  
12 managed care, Medicaid managed care initiatives, which  
13 would not have all the features of the financial alignment  
14 with the coordination with the federal dollars and sort of  
15 what's going to be the impact, so sort of thinking forward  
16 sort of how that might play out over a couple of years.

17           And then I think the last area I would comment on  
18 or would hope you would look at it sort of what's the real  
19 change we're seeing in terms of care coordination and care  
20 delivery.

21           When we look at look at Virginia, it was early  
22 on, and I think the general consensus was they haven't

1 really gotten to that phase of it yet, which also relates  
2 to this question of the length of the demo. How much time  
3 does it take just to ramp the thing up? And then you've  
4 got to start implementing good ideas on how to coordinate  
5 care, and will we have a chance to see real results? Are  
6 there in fact, when you're out there looking, real results  
7 they can point to in terms of better coordination, or is it  
8 mostly still aspirational? We've got this idea. We think  
9 it can happen, but can we point to any results? No, not  
10 really -- and sort of which answer is.

11           And then I think as you're doing that, to what  
12 extent are we seeing too much coordination? So there's the  
13 potential for the new MCO to come in and coordinate, but  
14 there's already the potential for the SNF, and many of  
15 these people are in long-term care or somebody in home and  
16 community-based care, so there's a coordinator there.  
17 There is perhaps a primary care coordinator, and maybe  
18 they're also in an ACO. Maybe they're in a patient-  
19 centered medical home. Maybe a person with disabilities  
20 who has a personal care assistant that's trying to  
21 coordinate their care -- and they could be sitting with  
22 four, five, six different coordinators, and then do you

1 need a coordinator to coordinate the coordinators? Maybe  
2 that's not a problem, but I think I've seen enough  
3 instances when I've been on site myself in some of these,  
4 to hear these kinds of things. Well, the plan comes in,  
5 and there's really not a useful role for them to play  
6 because they're either getting good coordination already or  
7 it creates complication because now this is a telephone  
8 coordination as opposed to the much more personal version  
9 that they're getting through some other sources.

10           So I think those are a number of things I would  
11 put on the table for things you may look at within the site  
12 visit framework, but I'm really encouraged that you're  
13 doing the work.

14           DR. MILLER: Yeah. And I would just -- I think  
15 those are all good ideas. You should add to them as you go  
16 around.

17           On the opt-out, we do keep hearing this: This is  
18 very provider driven. And, I mean, this is one area that  
19 we want to look into, and I don't know whether that's just  
20 people are saying that or whether it really seems to be  
21 happening. It seems like you came across some of that.

22           DR. HOADLEY: Yeah. We saw some of that in

1 Virginia, and this is all written up in a report through  
2 Kaiser Family Foundation, so our results are available, and  
3 I'm certainly happy to share more about it, but there were  
4 certainly -- and they were not sure, all the sources, but  
5 they certainly did have some cases where they would get a  
6 whole list of beneficiaries from one particular nursing  
7 home saying, "We want all these people opted out," or they  
8 would just get a sequence of letters that looked like form  
9 letters, again, probably generated in most cases by a  
10 nursing home. In some cases, the state would then sit down  
11 with the nursing home and say, "Do you really understand  
12 what we're trying to accomplish here?" and try to work with  
13 them. And it tended to sometimes be the small independent  
14 nursing homes who just didn't know much about what was  
15 going on, and they were afraid this was going to mess them  
16 up, they were going to lose their patients, whatever.

17           In other cases, it's not so clear that it was  
18 generated that way. It may have just been some more  
19 generic -- but they were working, and we had a point at  
20 which we had to finish our report. But they were  
21 continuing to explore and do some focus groups and surveys  
22 with some of the opt-out folks and trying to understand

1 what their motivations were. So maybe by -- you will be in  
2 the field well over a year beyond when we were in the  
3 field, and it would be similar in Massachusetts or Ohio or  
4 some of the other early states. You may be at a point  
5 where they have now a better sense of what went on and  
6 whether some of those people have reenrolled, because there  
7 was some concern about too much churning, but also some  
8 sort of appropriate, coming back into the program, because  
9 they would reach back out to the opt-out people and say,  
10 "Let me give you more information and see if this is  
11 something you might want to withdraw your opt-out."

12 DR. MILLER: The other thing I would ask you to  
13 comment on, particularly anybody who has gotten close to  
14 this in their own states or exactly what he said. He put -  
15 - I think you put it really well.

16 There's been a lot of like getting -- identifying  
17 the population, enrolling the population, getting the plans  
18 in, and making everybody understand what's going on. And  
19 then there's to do what? What is the special plan for the  
20 mental health population, the disabled population?

21 If you've heard of there is a particularly  
22 interesting program or angle on things, we want to know

1 about that because that's what we would like to be able to  
2 bring back.

3 I'm sorry.

4 DR. HOADLEY: Yeah. I think in Virginia, we  
5 heard actually very good reports in terms of the states  
6 working with all the stakeholders to try to sort of get  
7 them going, but there was a lot of start-up time involved  
8 in Virginia. In particular, it didn't have a big managed  
9 care history for this population, like some other states,  
10 and we would hear from one of the particular plans out  
11 there, a very interesting model, I think, and exactly in  
12 the behavioral health area where they wanted -- I forget  
13 exactly the nature of it, but where they really wanted to  
14 do what seemed like potentially could be very creative way  
15 to sort of coordinate between medical issues and behavioral  
16 health issues.

17 But it was something they were in the process of  
18 trying to get implemented. We were six or nine months into  
19 the program when we were there, and, okay, so if it's a  
20 three-year demonstration, they're going to get this  
21 implemented as of 2.5 years and then have six months to  
22 actually let it run, and then it's over, so that raised

1 some of those issues.

2 DR. CROSSON: Okay. Jack, thank you very much.

3 Let me suggest that we do two rounds. We have  
4 two somewhat discrete issues on the table. One has to do  
5 with a range of scenarios or proposals to expand the  
6 Medicare shared savings programs. So I'd like to see where  
7 people think they might be on that, and then expanding on  
8 Jack's suggestions, if there are any for focus that the  
9 staff might take in the site visits later on.

10 So, on the issue of expanding the Medicare shared  
11 savings programs, I saw Kathy's hand.

12 MS. BUTO: Okay. I don't know where I am on it.  
13 Let me just start there. Where I think I am on it is I  
14 don't think we're doing a good enough job of outreach under  
15 current rules, much less expanding or simplifying the  
16 program. And I realize one reason we think there's not a  
17 great take-up is it's maybe not looking that attractive,  
18 and it's extremely complex to navigate the system.

19 But I'm wondering whether we could, as we think  
20 about this, also consider whether there are things that  
21 Medicare could do because I realize the states have mixed  
22 emotions about this, but whether Medicare could do more to

1 make beneficiaries aware that these options exist.

2           There are certain communications like the annual  
3 Social Security notice that people get, other things maybe  
4 through their physicians or others, ways that we can think  
5 about getting -- using the leverage of the Medicare  
6 programs, since these are duals, to make them aware of  
7 these options. I just feel like that's a missed  
8 opportunity that -- realizing it's a tough one, before we  
9 even get to expanding coverage and simplifying.

10           So that's where I am on that.

11           DR. CROSSON: Other thoughts? David?

12           DR. NERENZ: Maybe it's the same thought, just in  
13 slightly different words. I think I basically would agree,  
14 but it would be interesting -- and I'm not quite sure how  
15 you formally do it -- to do some kind of a simulation about  
16 where the greatest bang for the buck is in terms of  
17 whatever we think the bottom-line benefits are by either  
18 getting higher participation in the programs, plural, as  
19 currently constructed, or expanding. Because my sense in  
20 reading it is the expansion is essentially raising the  
21 income limit. Is that the main essence of it, of the  
22 "its," plural?

1 MR. ROLLINS: Yes.

2 DR. NERENZ: Okay. But if that happens, it's  
3 still complex, it's still confusing, and it may still have  
4 low participation, but it still may be better. So it seems  
5 like there are two big alternatives here. One is to do one  
6 of these flavors of expansion and perhaps live with low  
7 participation, and that has certain costs and benefits.  
8 But you could also say what about pushing to improve  
9 participation in the way it currently is, and that has some  
10 costs and benefits. And I'd be interested to see those  
11 laid out side by side if there was any way to do that.

12 DR. CROSSON: So on Kathy's point and David's  
13 second, is there a history to CMS doing this? Has this  
14 occurred before, that is, efforts at outreach? Jack.

15 DR. HOADLEY: Part of it is, you know, like the  
16 LIS created a new opportunity for outreach, and I think the  
17 one step where the Scenario 1 actually goes beyond just  
18 changing income limits is the idea of aligning the limits  
19 with the LIS so there can be a more unified outreach, if  
20 you sign somebody up for the LIS, and, again, it's what  
21 role Social Security would play versus the states to try to  
22 make sure that they at least are told about and maybe, in

1 fact, enrolled in the MSP side. So that's where I can go a  
2 little bit beyond that, and that's actually in the existing  
3 things that the Commission has recommended.

4           There was, I remember -- and I don't remember  
5 much of the detail of it -- probably 20 years ago, some  
6 initiatives involving the Social Security Administration I  
7 think working together with then HCFA to test some  
8 different approaches to outreach for enrollment. I don't  
9 know how much of that was MSP in particular. SSI I think  
10 was maybe part of that. I don't know if, Kathy, you  
11 remember some of that. But there were some efforts that  
12 maybe showed, you know, the advantages of some different  
13 mechanisms. But I don't know that it had particularly  
14 encouraging results. I vaguely remember --

15           MS. BUTO: Yeah, I would broaden the question,  
16 Jay, to maybe where has CMS or Medicare been successful in  
17 reaching the population to do things that were available  
18 but not used.

19           DR. CROSSON: On any issue.

20           MS. BUTO: And one example of that would be when  
21 the new flu vaccine benefit came in, there was very low  
22 takeup. A lot of experimentation went on, and the agency

1 through its regional offices actually contracted with  
2 community organizations, and that was very successful in  
3 raising the -- especially in the African American  
4 community, raising the awareness that this was a benefit  
5 and it was done through the Council of Black Churches, or  
6 whatever, with the African American community. So trusted  
7 community sources were found to be very effective in  
8 getting the word out on these benefits that people were  
9 actually already entitled to.

10           So you could imagine a strategy, if the agency  
11 wanted to do it. They were similarly, I think, with Part  
12 D, quite -- they've been more and more successful in  
13 getting -- raising the awareness both of choices and other  
14 things. So they've had the experience, and the question  
15 is: Can it be applied to this area? Which is very  
16 underutilized and has been for years and years.

17           DR. CROSSON: So I think I'm hearing support for  
18 reinforcing our current recommendations as well as  
19 exploring this issue of what CMS could do within the  
20 current benefit structure to expand participation. So --

21           DR. MILLER: And we can certainly review broadly,  
22 you know, here's what they did over here and see what

1 lessons might be brought to bear here.

2 DR. HOADLEY: Maybe lessons out of some of the  
3 Navigator efforts on the ACA side. Again, not always  
4 successful. There's also maybe questions of the SHIPs that  
5 provide counseling services that are right now facing some  
6 funding cuts and that the Commission has talked over the  
7 years about, you know, adequate support for SHIP  
8 initiatives, and they don't necessarily have -- in terms of  
9 some of the state SHIPs have not necessarily been all that  
10 successful within some of the lower-income communities or  
11 some of the non-English-speaking communities, and so,  
12 again, particular efforts potentially to encourage SHIPs to  
13 work in some of those areas might be something that  
14 separate from, you know, whatever we might do on these  
15 scenarios.

16 DR. CROSSON: Good. Let's then turn to the site  
17 visits and the new models of care. Thoughts about -- in  
18 addition to the thoughts that Jack has had?

19 MS. BUTO: The only request I would have -- and  
20 I'm sure you're already doing this, Eric -- is to look  
21 among the models that you visit for what's being done,  
22 targeted, or offered for the under 65 disabled. As you

1 pointed out in your presentation, a lot of the services  
2 there maybe involve mental health care, et cetera, so it  
3 dovetails into our other work in that area. But there also  
4 might be aspects like personal care services that we should  
5 just be aware of the differences in a plan that's going to  
6 be serving that population.

7 MR. ROLLINS: And one of the states that we hope  
8 to visit is Massachusetts, which is distinctive among the  
9 demonstration states. They're the only ones that's  
10 focusing exclusively on the under-65 disabled, and I know  
11 mental health issues have been a big concern for them.

12 DR. CROSSON: Other thoughts?

13 [No response.]

14 DR. CROSSON: Okay. Thank you very much. Thank  
15 you, Eric. I hope you got some direction here.

16 So that brings us to the end of our agenda for  
17 November, and now we have the opportunity for comments from  
18 the public. So if you are interested in making a comment,  
19 I would ask you to step up to the microphone so we can see  
20 how many individuals are here to do that.

21 I see one, and I'll just, sorry, reiterate my  
22 comments from yesterday. This is not necessarily the only

1 or best way to provide input to the Commission. There are  
2 more direct personal ways as well as online capabilities  
3 that exist.

4 I would ask you to in this case repeat who you  
5 are and your affiliation and also try to maintain your  
6 comments to two minutes. I will turn this light off, and  
7 when the light comes back on, again, that's two minutes.  
8 You have the microphone.

9 DR. LUKE: Thank you, sir. My name is Dr. Josh  
10 Luke. I'm the founder of the National Readmission  
11 Prevention Collaborative. I appreciate all the  
12 conversation today as it pertained to readmissions. I want  
13 to thank Carol and Dana for a great presentation, very  
14 pointed, and also Eric.

15 I wanted to just discuss briefly, Dr. Naylor has  
16 done such great work in this area, and I appreciated your  
17 commentary on it. The Medicare spending per beneficiary  
18 measurement right now, my organization has hosted 15  
19 conferences nationally this year focused on care  
20 coordination, one-day conferences promoting Dr. Naylor's  
21 and other folks' work. There is a significant amount of  
22 ignorance to MSPB still in the acute sector, so we have a

1 lot of work to do to get the message out. But we tend to  
2 refer to it at those conferences as the "new readmission  
3 penalty" because it's a lot better way to get the acute  
4 provider and the physician to pay attention to what happens  
5 once the patient leaves the hospital. So I appreciate the  
6 focus on that.

7 I thought, as Carol pointed out, the suggestion  
8 for a post-acute MSPB measure was a great suggestion. I  
9 would encourage the Commission -- and I'll follow up with  
10 Mark and Carol and Dana on this -- to consider possibly  
11 extending it beyond 30 days because there is some  
12 gamesmanship and some unintended consequences that can come  
13 about right at that 30-day mark because the current fee-  
14 for-service benefit allows SNFs, for example, to bring  
15 patients back on the 30th day, things along those lines.  
16 You might have a second episode of home health. So I think  
17 it would be important to consider potentially extending  
18 that beyond 30 days.

19 Yesterday there was some discussion on the  
20 chronic care management codes, and I would reiterate what  
21 the Commission has found as we travel the country and hear  
22 from different folks. The beneficiary co-pay is very

1 prohibitive for somebody on a fixed budget to not really  
2 see this care that's being delivered, so that's very  
3 prohibited to date. So further conversations about chronic  
4 care would encourage the co-pay to be the issue at the  
5 forefront, and also from the provider side the documents is  
6 absolutely the concern.

7           And the last thing I would say is I have the  
8 honor of being on the advisory board for Global  
9 Transitional Care, the first company in the country out in  
10 Southern California that's doing transitional care  
11 management. We've got 29 patients enrolled. We're doing  
12 it at a good pace, and, Mark, your comment about who's  
13 going to coordinate as we move forward, again, I can follow  
14 up with you on that, but we're starting to see some  
15 evidence that potentially having the acute providers hold  
16 accountable the post-acute providers, even in an informal  
17 network, to do that transitional care piece may be a way to  
18 get to that.

19           So I want to thank you for all the great work  
20 that's been done here, and I will follow up on those  
21 issues.

22           DR. CROSSON: Thank you. Thank you for your

1 comments.

2           Seeing no one else at the microphone, we are  
3 adjourned until December. Thank you [off microphone].

4           [Whereupon, at 10:45 a.m., the meeting was  
5 adjourned.]

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