

## MEDICARE PAYMENT ADVISORY COMMISSION

## PUBLIC MEETING

The Horizon Ballroom  
Ronald Reagan Building  
International Trade Center  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C.

Thursday, October 8, 2009  
9:44 a.m.

## COMMISSIONERS PRESENT:

GLENN M. HACKBARTH, J.D., Chair  
FRANCIS J. CROSSON, M.D., Vice Chair  
MITRA BEHROOZI, J.D.  
ROBERT A. BERENSON, M.D.  
JOHN M. BERTKO, F.S.A., M.A.A.A.  
KAREN R. BORMAN, M.D.  
PETER W. BUTLER, M.H.S.A.  
RONALD D. CASTELLANOS, M.D.  
MICHAEL CHERNEW, Ph.D.  
THOMAS M. DEAN, M.D.  
JENNIE CHIN HANSEN, R.N., M.S.N., F.A.A.N  
NANCY M. KANE, D.B.A.  
HERB B. KUHN  
GEORGE N. MILLER, JR., M.H.S.A.  
ARNOLD MILSTEIN, M.D., M.P.H.  
WILLIAM J. SCANLON, Ph.D.  
BRUCE STUART, Ph.D.

AGENDA	PAGE
Aligning medical education with health system needs -- Cristina Boccuti, Craig Lisk	4
Workplan: Case studies and metrics for high performing systems -- David Glass, Jeff Stensland	87
Public Comment	121
MIPPA 168 - Comparing Quality in MA and FFS Medicare: Policy Options -- John Richardson, Carlos Zarabozo	124
Pricing Services in Medicare's physician fee schedule -- Kevin Hayes, Ariel Winter	225
Exploring the in-office ancillary exception to the physician self-referral law -- Ariel Winter	286
Public Comment	330

## 1 P R O C E E D I N G S

2 MR. HACKBARTH: Good morning. At our meeting  
3 today and tomorrow, we've got some interesting items on the  
4 agenda. We're going to have draft recommendations that  
5 we'll consider this afternoon. That's the first time we're  
6 actually looking at recommendations in this cycle. As  
7 always, we will have draft recommendations, no vote today.  
8 This is on the mandated report on how to measure quality,  
9 compare quality in fee-for-service and Medicare Advantage  
10 plans. So we'll consider draft recommendations today with a  
11 final vote at some point in the next few months. I'm not  
12 sure when that will actually fall.

13 This afternoon, at this afternoon's session, we'll  
14 have a camera here from C-SPAN. C-SPAN will be taping the  
15 afternoon session. It won't be live, it will be delayed and  
16 shown at some point later. Hopefully, that won't be too  
17 disruptive for people in the audience.

18 As always, we'll have our usual public comment  
19 period at the end of each session. In order to increase  
20 opportunities for people to comment on our work, we've added  
21 a new feature to the MedPAC website, and Jim Mathews is  
22 going to describe that so people can make use of it.

1 DR. MATHEWS: Yes. Starting with this meeting,  
2 we've added the capacity for you to submit written comments  
3 on the agenda items via our website. So if you go to the  
4 page on the website where we post the meeting agenda, you'll  
5 see under each agenda item there is a drop-down box that  
6 will allow you to submit comments.

7 We are going to try this out as a matter of  
8 routine, and we will begin soliciting comments on the  
9 meeting agenda items at the time the agenda is posted, and  
10 we will keep that comment period open for one week after the  
11 meeting.

12 MR. HACKBARTH: Thanks, Jim.

13 Let's turn to our agenda for this morning. The  
14 first topic is medical education.

15 MS. BOCCUTI: Thanks, Glenn. So at the outset of  
16 this presentation, I want to say that teaching hospitals and  
17 residency programs are really doing a tremendous job  
18 teaching our future physicians how to be excellent doctors  
19 for their patients and for their community.

20 Nonetheless, the Commission over the last year and  
21 a half has raised some issues about medical education. Some  
22 of these are related to market forces, but others are

1 related to subsidy structure within the financing. So we're  
2 going to talk about some of those today.

3           So just to give an overview of this session,  
4 first, we're going to talk about some background issues that  
5 came up from the last meeting. So these are more  
6 informational. First will be about Title VII and Title VIII  
7 and the National Health Services Corps which came up, and  
8 Craig is going to talk about Medicare's residency caps and  
9 residency growth. And then we'll move on to the discussion  
10 about goals of medical education and training and problems  
11 that you've been discussing with the current system. And  
12 then we'll end with opportunities for addressing some of  
13 those problems.

14           So first, again, as a background piece, HRSA runs  
15 several programs to boost the supply and diversity of  
16 primary care providers in underserved areas. Grants in  
17 Title VII and Title VIII support many initiatives that have  
18 been of interest to the Commissioners, that you have been  
19 raising. So to mention a few, these Title VII and Title  
20 VIII programs provide medical school and residency support  
21 for primary care. They also provide geriatric training  
22 support and support for various programs at Historically

1 Black medical schools, and they also provide faculty  
2 enrichment and loan repayments, among many other programs.

3 The National Health Service Corps provides loan  
4 repayments and scholarships to health professionals in  
5 exchange for a two-year commitment to practice primary care  
6 in underserved areas.

7 The important point to know about these programs  
8 is that they have been shown in peer review literature to be  
9 associated with supply increases of primary care providers,  
10 and that includes physicians, nurses, and others. For  
11 example, physicians who trained at medical schools that had  
12 Title VII funding were more likely to enter primary care,  
13 work in shortage areas, practice at community health  
14 centers, and join the National Health Service Corps.

15 I should mention that for these three programs,  
16 they're subject to reauthorization and annual appropriation  
17 processes.

18 Now, Craig's going to give you the other  
19 background information.

20 MR. LISK: At the last meeting, we had some  
21 questions on the resident caps and how Medicare counts  
22 residents, so I just wanted to clarify how that is done and

1 what happens here.

2           For direct GME payments, Medicare uses a weighted  
3 count of residents. Full-time residents in their first  
4 residency program are given a weight of one in terms of the  
5 count of residents. Residents in their second residencies -  
6 - that would include things like cardiology or hand surgery  
7 after finishing a general surgery residency -- are counted  
8 as half an FTE. And if residents take longer to finish  
9 their residency training, they are also counted as half an  
10 FTE. So if they decide to take an extra year, they would be  
11 counted as half an FTE for that purpose.

12           These weighting factors, though, are not used for  
13 the Indirect medical education adjustment count of  
14 residents. All residents are counted the same for IMEs. So  
15 there is no distinction there.

16           The count used for residents is also capped at  
17 1996 levels. This was implemented as part of the Balanced  
18 Budget Act of 1997 to curb the financial incentives  
19 hospitals had for growing the size of their residency  
20 programs.

21           Rural hospitals, however, were given a cap of 130  
22 percent of that amount. So they had a little bit higher

1 cap. And exceptions were also made for certain programs,  
2 such as new programs in rural hospitals so that a rural  
3 hospital could start a new training program that they  
4 already didn't have, rural training tracks in urban  
5 hospitals, they are based in urban hospitals, and hospitals  
6 that previously had no residents.

7           The MMA legislation also provided for some  
8 redistribution of unused residency slots. So for hospitals  
9 that were below the caps, they were allowed to -- those  
10 slots were redistributed to hospitals that were above the  
11 caps or wanted to expand residency training programs.

12           The MMA and the health reform proposals up on the  
13 Hill, both on the Senate and House sides, are considering  
14 some redistribution, again, of unused slots targeted to  
15 primary -- more or less targeted to primary care, although  
16 we will see what happens there.

17           Now, hospitals are permitted to train over the  
18 cap, but Medicare will not provide any additional IME or GME  
19 funds for those residents. And in 2006, from an analysis we  
20 have done on the Medicare cost reports, we find that  
21 hospitals are training about 8,000 FTE residents over the  
22 cap. So hospitals have these residents, but they are



1 receiving no Medicare direct GME or IME payments for these  
2 residents.

3 Hospitals that are over the cap, we find, have a  
4 lower share of primary care residents in terms of the  
5 proportion of residents that they train, and we plan to  
6 update this analysis to 2008.

7 Since 2001, we have seen substantial growth in the  
8 number of residents, an increase of about 12,000, despite  
9 the presence of residency caps. This is the total number of  
10 allopathic residents. It doesn't include residents that are  
11 in osteopathic training programs or dental and podiatry  
12 residents.

13 This growth has two parts. The number entering  
14 training for the first time has increased since 2001 by more  
15 than 3,000 residents. This growth in these positions  
16 contributes to the increase, as each resident requires three  
17 or more years of training. Also, the total number in  
18 training has increased due to increases in the proportion of  
19 residents subspecializing, which requires additional years  
20 of training.

21 If we look at this next slide, we are looking at  
22 residents that complete training in a given year and either

1 pursue further subspecialization or enter practice or don't  
2 pursue additional training. And as we see here that more  
3 residents are subspecializing and fewer are entering  
4 generalist careers.

5           If we look at the primary care side, which  
6 includes internal medicine, pediatrics, and family practice,  
7 there has been an increase in the number subspecializing in  
8 fields like cardiology and gastroenterology, an increase of  
9 1,100 since 2000, and a decline in the output of generalists  
10 of more than 1,800. So that is the red bar there.

11           We see a similar situation for surgery  
12 specialties, with fewer general surgeons and fewer in other  
13 core surgical specialties, like orthopedics and urology. I  
14 should actually say not orthopedics, because orthopedics is  
15 constant, but neurology and urology. But within the  
16 surgical field, we are actually seeing additional  
17 subspecialization. So both for general surgery and within  
18 those other surgical specialties, people are pursuing  
19 additional training and taking more time. So that is also  
20 contributing to our increases in the number of residents.

21           So with that, we will move on.

22           MS. BOCCUTI: Okay. Now switching back to medical

1 education and training issues, we are going to start here  
2 with a few bullets that list broad goals, so here are the  
3 first.

4           We have to ensure that students possess the  
5 knowledge, skills, and values necessary to provide high-  
6 quality health care. And second, to produce a workforce  
7 that best serves the needs of our society. And third, we  
8 listed here as a goal to become leaders in forming a high-  
9 value health system.

10           Now, as you know, individual hospitals and  
11 residency programs have their own missions, but this, we  
12 thought, could reflect broad goals. But if we want to add  
13 some here for further work, this would be a good time to  
14 mention these for goals.

15           And then next slide, please. So over the past  
16 year and a half, you have raised a range of problems that  
17 you see with medical education. These problems span a  
18 continuum of issues inside and outside of Medicare payment  
19 policies. So to help sort out all the problems that we've  
20 been raising, we've categorized them into three issues. Of  
21 course, there's some overlap, but to help the discussion,  
22 the three issues here are pipeline issues, delivery system

1 reform issues, and economic inefficiencies.

2           So for the pipeline issues, the first four bullets  
3 up here are not necessarily specific to Medicare financing.  
4 Craig just talked a bit about the first one on generalists,  
5 but I would also mention that certainly there are  
6 specialists and specialty fields that are facing shortages,  
7 too. But this is specific to an area that the Commission  
8 has raised a concern about, and I certainly recall from the  
9 physician update conversations. I think Mike and Nancy and  
10 others were talking about a need to express some urgency  
11 about primary care and that led to the repeat of the  
12 recommendation to adjust payments through the fee schedule.

13           The second bullet there on underrepresented  
14 minorities, rural students, and low-income students was also  
15 discussed in our June report, just this recent June, and I  
16 do want to mention that studies certainly have shown that  
17 students from these backgrounds are more likely to enter the  
18 field of medicine with the intent to care for patients in  
19 underserved areas, and several of you have brought this up.  
20 I think George and Ron and Mitra have been bringing these  
21 issues up.

22           The third bullet there about medical school

1 admissions, Tom has brought this up. I think John mentioned  
2 this to me recently. The issue that many have raised that  
3 the criteria for medical school admissions and the  
4 standardized testing may, in fact, be eliminating some  
5 extremely qualified candidates that are able to diagnose,  
6 treat, and take care of their patients.

7           And then in that fourth bullet under the overall  
8 problems, Karen and Bill have raised this point about  
9 perhaps a better use of mid-level professionals could  
10 alleviate concerns about primary care and, indeed, other  
11 services.

12           And then turning more specifically to Medicare  
13 financing for medical education, we note, of course, that  
14 Medicare's focus is on residency training. So this  
15 circumstance means that Medicare is generally too late in  
16 the process to affect the pipeline of physicians.

17           Also, Medicare's GME and IME influence also has  
18 little influence on the specialty mix and the training  
19 location of residents, as Craig described in the way that  
20 residents are counted for and paid for.

21           And third, as Jennie has pointed out, the focus on  
22 residents really limits Medicare's financing for education

1 and training of mid-level professionals, like nurses.

2           And so turning to delivery system reform issues,  
3 we note that the IOM, expert panels, peer-reviewed research  
4 have all stated that residents have insufficient experience  
5 in coordinating care across settings. Much of this stems  
6 from limited time in non-hospital settings, and we discussed  
7 this in the chapter in just this -- it seems like a long  
8 time ago, but just this recent June 2009 report.

9           As Karen brought up, inpatient experience is  
10 essential for residents to learn about serious, acute  
11 illness, but there does seem to be a need to balance that  
12 with adequate and sufficient experience in non-hospital  
13 settings.

14           The other point there, about curricula, the  
15 Commission discussed this in its recent report, so I don't  
16 need to go into it.

17           On the pipeline issues, we put up there just  
18 because some of that feeds into delivery for reform when we  
19 talk about having a well-functioning system that has  
20 generalists to support it.

21           And then moving on to specifically with regard to  
22 Medicare GME and IME financing, we note, of course, that

1 payments are tied to inpatient admissions. This creates  
2 some problems. Namely, hospitals really do face financial  
3 incentives to retain residents within their complex for  
4 staffing reasons, and moreover, the subsidies further  
5 influence staffing decisions.

6           And the other issue with this situation is that  
7 linking the subsidies to hospital admissions is somewhat  
8 mismatched with the overall goal to improve ambulatory care  
9 and prevent avoidable hospital admissions.

10           So on to the third category here, we have the  
11 economic inefficiencies. Government payers are really the  
12 major explicit funders of medical education, yet there is  
13 really no central workforce planning to coordinate all these  
14 subsidies. And I said explicit because some private  
15 insurers contribute indirectly through higher patient care  
16 payments to teaching providers. And I should also note that  
17 a small number of States require private insurers to  
18 contribute explicitly to graduate medical education, and I  
19 believe New York is one of them, so Mitra probably can speak  
20 well to this.

21           And then the subsidies, for the subsidies there,  
22 the problem that we raised about the Federal subsidies

1 influencing the hospital decisions also plays here when we  
2 talk about economic inefficiencies.

3           And then specifically to Medicare, we have the  
4 financing issue that I know most of you are aware of, with  
5 approximately \$3 billion of IME going towards costs that are  
6 not attributable to higher inpatient care costs, and Craig  
7 has done a lot of the calculations for this and I am sure he  
8 could answer any questions on that topic.

9           So there are many ways that medical education  
10 could be reformed, and we listed many in your briefing  
11 materials for this meeting. However, we're going to narrow  
12 the focus somewhat on just a few issues for the close of  
13 this presentation.

14           For pipeline issues, we have two here on the  
15 slide. First, recognizing that there are programs outside  
16 of Medicare, specifically in HRSA, that are geared toward  
17 the supply, diversity, and distribution of health  
18 professionals, perhaps enhancing these programs would be an  
19 effective way to address some of the pipeline issues that we  
20 have been raising.

21           Second, directing a portion of funding to  
22 residency programs could give them more autonomy to develop



1 learning venues in well-functioning office-based practices  
2 and clinics. Residency exposure to these kinds of  
3 environments could encourage greater appreciation for  
4 primary care careers. And I think several of you have  
5 discussed the problems with the harried environments that  
6 residents are facing and perhaps this could address some of  
7 that, and I'll stop talking on that and move on.

8 Under delivery reform, we have the item that I  
9 think Peter and Arnie and John have been discussing about  
10 optimal training environments. So if Medicare provided  
11 incentives for graduate medical education to occur in such  
12 optimal training environments, then not only will the  
13 residents be more likely to learn the skills that they need  
14 to deliver high-quality and efficient care, but the patients  
15 will simultaneously be benefitting from this learning  
16 experience.

17 Academic medical centers could be ideal candidates  
18 for participation in demonstration projects that are testing  
19 delivery system reforms, such as the one that MedPAC has  
20 recommended for ACOs. Here, on this topic, it would be very  
21 useful to hear your input on other ways that we could be  
22 linking subsidies to graduate medical education -- the GME

1 subsidies to delivery system reform ideas.

2           And finally, the portion of Medicare's IME that  
3 can't be attributable to the higher patient care costs could  
4 be reallocated to improve economic efficiency for the  
5 subsidy.

6           So here we have a graphic on the screen to  
7 demonstrate these items that I just discussed. Again,  
8 there's many other proposals out there, many that we've  
9 discussed and many that were in your briefing, like  
10 adjustments to the non-hospital regulations, some all-payer  
11 ideas, faculty expertise incentives, and specialty-based  
12 payments. We can talk about those, but we thought that  
13 narrowing it to these big picture items might be helpful for  
14 today's discussion.

15           So we welcome your discussion and we're happy to  
16 answer any questions. Thank you.

17           MR. HACKBARTH: Okay. Thank you, Cristina and  
18 Craig.

19           So we have a goal for this discussion and that's  
20 to begin the process of focusing in on where we think we  
21 might be able to make some recommendations. We've had at  
22 least three, maybe four sort of broad ranging discussions

1 where we've tried to learn a little bit about the broad area  
2 and explore subjects of interest to Commissioners. But now,  
3 we need to start trying to focus in.

4 Cristina has proposed one framework for trying to  
5 start to organize our thinking. Feel free to resist that,  
6 but we do need to start moving towards some more narrow  
7 directions.

8 As we go through the Commissioner comments, I am  
9 going to a little bit more aggressively enforce the rules.  
10 Round one is going to be clarifying questions. I hope  
11 people will not be offended if I say a particular question  
12 is better deferred until later. I'd really like to get to  
13 round three so we can start to, again, agree on future  
14 directions for our work.

15 So let me see hands for round one clarifying  
16 questions. We'll start with Ron and then come down this  
17 way.

18 DR. CASTELLANOS: Cristina, very good job. I  
19 really appreciate it. Your comments were excellent.

20 I am concerned about society's needs. What data  
21 do we have, if any, that can support our recommendations for  
22 what society's needs will be, hopefully, in the future, and

1 how are you using to identify that?

2 MS. BOCCUTI: I think we need to determine first  
3 how -- whether we're going to evoke that discussion in GME  
4 issues. I think the Commission has been clear on concerns  
5 about primary care when I've been doing the physician update  
6 analysis, et cetera. You need to be thinking about where  
7 that would fit into this and whether you want us to pursue  
8 more data with regard to that. Is that a fair --

9 MR. HACKBARTH: Yes, and we can come back to that,  
10 Ron, in subsequent rounds if you want to.

11 DR. CHERNEW: How good are the studies to try and  
12 quantify the impact of some of these things on the specialty  
13 choices that medical students make? Do they deal with  
14 selection well? Are they, would you say, well-done studies  
15 that we could be comfortable that the magnitudes are  
16 knowable?

17 MR. HACKBARTH: Yes. I'm going to enforce the  
18 rules here. Round one, I'd really like to get people to  
19 focus on what did you mean in Chart 3? What does that  
20 number mean? And again, Mike, we can come back to that.  
21 It's an important issue, but I'd really like to adhere to  
22 our discipline.

1 MR. GEORGE MILLER: I'm afraid to say anything.

2 [Laughter.]

3 MR. HACKBARTH: That means it's working.

4 [Laughter.]

5 MR. GEORGE MILLER: I have a technical question  
6 that is not on the chart, so I can't refer to that, but I do  
7 have a question about the National Health Service Corps.  
8 I've heard that those physicians who are given grants are  
9 then taxed, and that is somewhat a disincentive. Have you  
10 found that to be true, and what are the implications of more  
11 physicians going to that track? If that is true, will it  
12 adversely affect people choosing National Health Service  
13 Corps?

14 MS. BOCCUTI: I'll look into the tax policy on  
15 that.

16 MR. GEORGE MILLER: Yes. I realize that's not --

17 MS. BOCCUTI: I imagine it would be treated like  
18 other grants --

19 MR. GEORGE MILLER: Right.

20 MS. BOCCUTI: -- and I'll certainly make sure. I  
21 don't want to speak incorrectly --

22 MR. GEORGE MILLER: Right. And what I've heard,

1 just so you can chase this rabbit down, is if, well, I'm  
2 going to medical school, I'm not earning income. If I've  
3 got to pay taxes on that grant, I'm going to go find another  
4 job, and that's a disincentive.

5 MS. BOCCUTI: I want to just get the details  
6 correct, and I'll be happy to talk with you further on it.

7 DR. MILSTEIN: My question referred to Slide 12,  
8 the last bullet. My quick question is this. I know that in  
9 our prior analyses, we've looked at the relationship between  
10 how much we're paying and how much we think it actually  
11 costs, but could you remind me whether we have ever  
12 attempted, or maybe even whether it would seem feasible to  
13 essentially evaluate the degree to which teaching hospitals  
14 vary in the efficiency with which they train, that is, in  
15 these two dimensions. Or does this cost refer to industry-  
16 wide, and have we ever taken that apart and identified  
17 differences in the efficiency with which different teaching  
18 hospitals are teaching trainees?

19 DR. MARK MILLER: I think the answer is that this  
20 is a national estimate and we have not gone in and tried to  
21 determine whether the costs vary by hospital by hospital.  
22 This is a national number that we've always worked with, an

1 average across all hospitals.

2 MR. HACKBARTH: So let me just make sure that I  
3 understand. So you're saying, could we do at the hospital  
4 level an empirical estimate of the costs of teaching so we  
5 could see how that number varies across institutions?

6 DR. MILSTEIN: Yes. It's much more analogous to  
7 what we've done in Medicare payment, where if we have any  
8 basis for figuring out what the cost of efficient teaching  
9 is.

10 MR. HACKBARTH: Yes.

11 DR. MARK MILLER: And we will take that back and  
12 discuss it among ourselves to see. What I do want to do, as  
13 always, lower your expectations a little bit. My sense of  
14 the way that estimate is derived, it's basically through a  
15 cost function regression and it sort of is determined based  
16 on looking at the variation across them. I don't know that  
17 we're going to be able to go in and isolate it specifically  
18 for any individual hospital, but we can discuss that and  
19 come back to you on that.

20 MR. HACKBARTH: Any clarifying questions? Peter?

21 MR. BUTLER: Just curious. We've cited the 2.2  
22 empirical number for IME, versus the 5.5 where it's at,

1 versus our 4.5, where we recommended. When was that  
2 calculation made, the 2.2? How old is that?

3 MR. LISK: That was based on -- now I'm trying to  
4 remember -- 2004 data. We are actually in the process of  
5 updating that empirical estimate with -- also with --  
6 because MS-DRGs have been put in place to see what the  
7 estimate will now be. So we will be coming back with you  
8 with an updated estimate of that.

9 The other aspect of which I wasn't sure, and we'll  
10 talk about this, the direct GME is another component here,  
11 too, so --

12 MR. KUHN: I want to go to slide 4 and talk about  
13 the redistribution of the unused slots. If I remember right  
14 from the MMA, institutions that had unused slots, 75 percent  
15 of those were taken away for redistribution, so they were  
16 able to retain 25 percent and then 75 percent was  
17 redistributed.

18 I guess the question is do we have any information  
19 in terms of what the fill rate has been, not only for those  
20 institutions that retained their unused slots, but also the  
21 redistribution of the 75 percent that went around? I mean,  
22 are we still seeing -- the fact that Congress is looking at



1 another redistribution, it sounds like we still have a lot  
2 of unused slots, but I'm curious about what was the fill  
3 rate we saw from that exercise. Do we know?

4 MR. LISK: I can go back and try to check to see  
5 what those numbers are like, and as part of what we talked  
6 about saying in terms of updating the analysis to 2008.  
7 That, I can make as part of that analysis, to try to do that  
8 as best we can.

9 MR. HACKBARTH: Clarifying round one?

10 MS. HANSEN: I think the same question with the  
11 unused slots, if you -- anecdotally, I've heard that a lot  
12 of the geriatric slots have not been filled, or maybe that's  
13 -- I'm sorry. I'm correcting myself. I think it is the  
14 fellowships that are not filled, so it is not the residency  
15 slots.

16 MR. LISK: Right. And again, places could have  
17 slots and unfilled slots. It is really in terms of what the  
18 Medicare cap number is and what they have as unfilled. So  
19 hospitals could be way over the cap and have unfilled slots.  
20 But from this perspective of unused slots that are ones  
21 relative to the Medicare cap.

22 DR. BORMAN: Just a quick clarifying reminder.

1 Just because you have slots in one thing doesn't mean you  
2 can shift them pretty freely across residencies. So  
3 remember, even if you have funded residency slots, unless  
4 you are accredited to educate X-number of people in a  
5 specialty, you can't just move those excess slots over. And  
6 I know you understand that because of your relationship with  
7 an academic medical center, but just so everybody can  
8 remember, this is not sort of a free mix-and-match option.

9 MR. HACKBARTH: Other clarifying questions?

10 DR. DEAN: I appreciate Karen's comment, because  
11 that really was my question. I couldn't remember if there  
12 was -- are these slots identified by specialty so that --  
13 because the overall number is just a broad number, right?  
14 It's not broken down by specialty in terms of the cap. But  
15 when they're redistributed, is it required that they stay in  
16 the same specialty, or --

17 MR. LISK: No, not in the MMA redistribution.  
18 There was some priority given to places that were rural or  
19 primary care initially, but that was not necessarily what  
20 happened in the end.

21 In the reform proposals, there is some  
22 consideration of the slots really only being -- in some way,

1 I'm not sure how, whether there are any ways they can get  
2 around it -- of them being more focused for primary care use  
3 and just for expansion, having some requirements that they  
4 hold their numbers down. But it depends upon what comes out  
5 in the final legislation is something is reformed. And that  
6 is in what is in the proposals now. But in the old  
7 redistribution, there wasn't --

8 DR. DEAN: Medicare does not have any --

9 MR. LISK: No.

10 DR. DEAN: -- requirements as far as specialty mix  
11 right now?

12 MR. LISK: No.

13 MR. HACKBARTH: So I'm a little bit confused here.  
14 Maybe I misunderstood what you were saying, Karen. So  
15 within a given institution, if it's operating under its  
16 Medicare cap, is it free to change the specialty mix of  
17 those residencies?

18 MR. LISK: Yes. I mean, it doesn't -- Medicare is  
19 having no impact on that in terms of what the hospital can  
20 do. I mean, they have to follow ACGME guidelines in terms  
21 of --

22 MR. HACKBARTH: Okay. So that was my

1 understanding of the Medicare role. So, Karen, would you  
2 explain your comment about there being restrictions? Those  
3 are non-Medicare restrictions you are referring to.

4 DR. BORMAN: Right. Those are non-Medicare  
5 restrictions, and that is driven by what you are credited to  
6 educate.

7 MR. HACKBARTH: Okay.

8 DR. BORMAN: So you could have funded slots, but  
9 if you don't have the accredited positions, you could not  
10 direct people into those.

11 MR. HACKBARTH: Okay. Got it. Could I ask about  
12 slide 5? I need you to sort of connect some points for me.  
13 I was struck to see the visual representation here and the  
14 slope of increase after 2001. This is in the context of  
15 Medicare caps that went into effect in 1996 or 1997. So why  
16 the rapid take-off after 2001? I can't reconcile that with  
17 the caps.

18 MR. LISK: I mean, hospitals can increase the size  
19 of their residency programs. Medicare doesn't prevent that  
20 from happening, so --

21 MR. HACKBARTH: So does this imply -- you said  
22 that there about 8,000 non-Medicare-funded residency slots.

1 This implies to me that those 8,000 all happened after 2001.  
2 Am I drawing an accurate inference?

3 MR. LISK: Basically, from 1997 to -- there was  
4 actually a -- when the caps were put in place, actually, the  
5 number of residency positions Medicare was paying for  
6 actually declined by about 1,000 to 2,000. And then growth  
7 started happening in 2001. There was growth starting with  
8 number of people entering residency training programs. That  
9 was held pretty constant from 1997 through 2001 and then  
10 started growing. So you had a number of people entering  
11 residency, allopathic residencies, increasing, and that  
12 actually increased by 15.5 percent over this period, and the  
13 total number of residents -- I mean, you have new people  
14 coming in. They're staying longer. So that contributes to  
15 the growth. And also people staying longer within the  
16 specialties and subspecializing further also contributes to  
17 the growth.

18 MR. HACKBARTH: Okay.

19 MR. LISK: So those three things are happening.  
20 Now, this is allopathic. We don't have the osteopathic  
21 specific residencies in here. That, I would assume, may  
22 have contributed even a little bit more to the growth. But

1 a lot of osteopathic residents go through allopathic  
2 residency training programs.

3 MR. HACKBARTH: Any other clarifying questions?

4 MR. GEORGE MILLER: Just to follow up on that  
5 point, that same graph, do you have the demographic  
6 breakdown of those residents, socio-economically?

7 MR. LISK: In terms of by race, there are some  
8 racial breakdowns of those, and --

9 MR. GEORGE MILLER: And income level, too.

10 MR. LISK: Not of income level. But in terms of  
11 what's supplied, we're using data that's in the JAMA's  
12 medical education issue to do some of these things, and they  
13 have some of that information, but not the income level.

14 MR. GEORGE MILLER: The shortages are in rural  
15 areas and inner-city areas. It would be interesting to know  
16 that information to reflect back on.

17 MR. LISK: No, I agree. I'm not sure what's  
18 available. We can look into it.

19 DR. BERENSON: On the same graph, also, it looks  
20 like, then, since 2001, it has been about a two percent per  
21 year increase. Do we know what it was before the cap came  
22 in, like the previous ten years before the cap?

1           MR. LISK:  If you go back to 1987 or so, there  
2  were about 80,000 residents.  A lot of subspecialty programs  
3  at that point have developed since then.  Hospitals expanded  
4  the number of subspecialty programs that came into place  
5  that were recognized by ACGME.  And so if you think about  
6  the number, it grew through about probably 1994, 1995  
7  substantially.  The slope was even steeper.  And we can  
8  provide you a graph that goes back to 1984, for instance.  
9  We have a graph that could go back to 1984 that can show  
10 these numbers and the trends and we would be happy to share  
11 that with you.

12           DR. BORMAN:  One other factor that I would mention  
13 that particularly 2003 and beyond, but some of it in  
14 anticipation of that, was the uniform requirements about  
15 resident working environment related to work hour standards  
16 and that programs that were able to expand did indeed do  
17 that to some extent because there was a certain amount of  
18 that that could either not be filled by mid-level providers  
19 with regards to skill set, and even for the functions that  
20 could be, that there were not an innumerable number of those  
21 individuals to bring into the system.  So that is a factor  
22 in some of that, as well.

1           MR. HACKBARTH: Any other clarifications?

2           Okay. Now let's turn to round two. Inasmuch as  
3 we have spent a fair amount of time on this topic, I hope as  
4 we go through round two, people will feel the need to say if  
5 they have some concerns, express those, but also express  
6 what they are in favor of and what they would like us to be  
7 moving towards on this.

8           Let me offer my own perspective as a starting  
9 point. This is a really complicated area and it's hard to  
10 know exactly the right thing to do. I grant you that. On  
11 the other hand, it seems pretty clear to me that we've got a  
12 training system that is not producing what society needs and  
13 -- and this is the really important part -- it doesn't seem  
14 to be self-correcting, which to me cries out for some policy  
15 intervention. Feel free to disagree with that assessment in  
16 your comments, but if you agree that the system is sort of  
17 on a wrong track and isn't self-correcting, what do you  
18 think needs to be done about it? It is time for us to  
19 really focus in on what we are going to do.

20           So let me see hands for round two comments, and  
21 we'll start with Karen.

22           DR. BORMAN: To just quickly say a few concerns.



1 One is, again, what is the delivery system model that we're  
2 targeting this activity toward.

3           Number two, the concern that we have to be careful  
4 not to try and fix everything we want to do through GME.

5           The third thing would be that it's important that  
6 we avoid meddling at the level of specifying faculty,  
7 curriculum, admission criteria, whatever it may be.

8           However, there are some things that I think are  
9 areas that we can consider. Number one, I think a fairly  
10 simple issue is to try and look at the regulatory issues  
11 about ambulatory care training sites and the funding  
12 barriers to doing that, I think, and we should combine that  
13 with rewarding or incenting ambulatory environments with  
14 high care systems or high performance -- or high value  
15 providers or high performance systems would be ways to take  
16 us in a direction simultaneously and give us some metrics  
17 towards doing that, not just sort of blanketly throwing  
18 money out there.

19           A somewhat similar thing in terms of the NHSC, I  
20 think we know from the fact that there aren't more takers to  
21 it that the level of debt forgiveness is probably not  
22 attracting people relative to the debt burden that the

1 average resident is finishing with now, which is on the size  
2 of a substantial mortgage, for example, just as a  
3 comparison, even in today's mortgage standards.

4           So I think one of the messages is that we're  
5 probably not offering sufficient debt forgiveness and that  
6 we need to revisit that and we need to again try and incent  
7 that we put people in underserved environments that are also  
8 ones that start to take on the characteristics of high  
9 performing systems and efficient providers, and that that  
10 would be good investments of ways that we could go.

11           I would like us to be careful about the statement  
12 about admission criteria too narrow. That sounds to me a  
13 lot like meddling with curriculum. As somebody who has sat  
14 on more than one medical school's admission committee, I can  
15 tell you that a fair amount of material comes forward about  
16 other than their academic record in terms of straight  
17 gradepoint and MCAT scores and all that other kind of thing.  
18 So I think we need to be a little bit careful on that topic.

19           And the favorite thing that we've talked about,  
20 about the importance of organic chemistry, I would just  
21 point out to you that I think that that is a bit of a proxy  
22 for general scientific and thinking aptitude. I agree with

1 you, I don't use the Krebs cycle in every day of my work,  
2 but the thought processes and the scientific aptitude that  
3 it measures are helpful and I think we just want to be a  
4 little bit careful about what we label as unnecessary.

5           And then the part about costs -- and this is my  
6 last point -- would be that I'm not sure, Craig, and you can  
7 help me here, that we've done this cost reporting and so  
8 forth. We're not really capturing some of the other  
9 educational costs like simulation laboratories, for example,  
10 or team training laboratories. We don't capture that.

11           MR. LISK: When we're looking at the IME  
12 adjustment, in terms of to the extent that contributes to  
13 higher patient care costs, it would be reflected in that.  
14 To the extent that it is put in as a direct GME cost, we are  
15 capturing it. We have not taken a detailed look at the  
16 direct GME costs and payments.

17           DR. BORMAN: I mean, one of my concerns here is  
18 that there is an increment -- you know, we can talk about,  
19 and Peter referred to what is the percentage we're talking  
20 about. I have some concern that modern educational  
21 expenses, some of them which are very pricey and that we  
22 like in terms of simulation, which enhances patient safety

1 and team training and some of those things, are expenses  
2 that we don't capture as part of the cost of education and  
3 that as we look at adjusting formulas or percentages, that  
4 we should try and get that, and that is partly because the  
5 money is so untrackable, and that if we move forward with  
6 considering moving some of the money to some control of the  
7 residency programs, that the first step is making some of  
8 the money more trackable. You know, in order to move it to  
9 the residency programs, it would need to start to be  
10 trackable dollars, or if we left it residing with the  
11 sponsoring institution, that we specify that a portion of it  
12 become more specifically trackable relative to faculty or  
13 other things that we want to incent. So there may be some  
14 middle ground about how to do that.

15           And then, finally, on a longer-term strategic  
16 level, should be readdressing the formula, that is, the  
17 intern-to-resident bed ratio in an ambulatory-driven  
18 environment starts to sound like an enormous anachronism and  
19 there's lots of talent that could be brought to bear about  
20 what formula we should be thinking about, as do we need to  
21 go there ultimately.

22           DR. CASTELLANOS: Thank you. Just to emphasize

1 one of Karen's points, I think that the greatest opportunity  
2 we have to influence this is through a payment policy and  
3 perhaps a look at how it's being paid now on a hospital  
4 admission bed basis is not the way we want to do it, but  
5 perhaps link it to some factor, to include ambulatory or  
6 outpatient care.

7           And the second issue on page seven is, again, or  
8 slide 7, I really think before we make a lot -- and maybe  
9 we're a little late on this -- could you turn to slide 7,  
10 please? Maybe we're a little late on this, but one of our  
11 goals is to produce a workforce that serves the needs of our  
12 society, both today and tomorrow, and I don't see that we've  
13 really looked into that. Today, we have looked at it.  
14 We've looked at shortage of primary care. We've looked at  
15 some of the specialty, perhaps. But, you know, thinking  
16 about system reform and the ACO models, et cetera, we need  
17 to kind of think in the future a little bit and I don't see  
18 that we have looked at that and I don't see any data, or at  
19 least that I've found, that gives us any credence about some  
20 of the recommendations we're making.

21           DR. CHERNEW: I'm still unclear in the chapter and  
22 then in your comment when you talk about the studies that

1 demonstrate the impact of some of these particular things,  
2 about how well those studies were done and how well we  
3 really know. What I'm worried about -- so in the spirit of  
4 Glenn's comment, I do believe there's some problem that we  
5 have recognized that is real, although I don't think that  
6 I'm expert enough to know the nuances of that problem. But  
7 I'm very concerned that our response to the problem will be  
8 to start throwing money or things in sort of ways where we  
9 don't really have a good idea of what the magnitudes of the  
10 response will be. And so any insights you have as to what  
11 those magnitudes are and how much money it takes to overcome  
12 some incredibly strong incentives that exist in the system  
13 and how much money it would necessarily take in what places  
14 to do that would be really useful.

15 MS. BOCCUTTI: I think, you know, not a lot of  
16 studies do sensitivity analyses that would sort of get to  
17 how much or what I think you're saying, and the ones that  
18 come to mind first are more about just income issues, and  
19 that relates a little bit more to fee schedule payments  
20 rather than GME monies.

21 So I think now that I understand more your  
22 question about how you would regulate the amounts, depending

1 on how much response you're hoping to get, I can't think of  
2 a lot that have been that regimented. But we'll look a  
3 little further and make sure you have the ability to look at  
4 these studies and make sort of an assessment about them.  
5 But I'm not even sure how much we want to go there, and I  
6 think maybe Glenn wants to discuss that.

7 MR. HACKBARTH: Just a clarification. Is your  
8 question specifically about the factors influencing  
9 specialty mix? It was framed broadly.

10 DR. CHERNEW: I think that you asked, and I think  
11 there will be some set of recommendations that will arise,  
12 and I think there have been a series of strategies for  
13 decades about how to make changes in physician workforce.  
14 And what I'm concerned about is that directionally, it will  
15 be something that we think is good. But our ability to do  
16 any sort of decent policy analysis about the costs and  
17 benefits of any particular recommendation will be extremely  
18 hard unless the literature is better than I think the  
19 literature is, and that's what I'm worried about.

20 MR. HACKBARTH: Yes. Karen, did you want to --

21 DR. BORMAN: Yes. I think the literature, Mike,  
22 is incredibly poor, and there's not even great literature

1 that assesses that trend that you saw about the increasing  
2 specialization.

3           And to just briefly comment, everybody has the  
4 sense that it's primarily about the money, and just to give  
5 you a preview of some work that I'm involved with, actually,  
6 out of 12 factors that we asked all finishing general  
7 surgery chief residents, all of them last year, money was  
8 number eight out of 12 factors -- income, anticipated  
9 increased income. And there were things far ahead of that  
10 that were the nature of the work and the operations, and  
11 even higher than that, ability to master a specific area.  
12 And whether that represents a generational thing about  
13 getting in control of a body of information or something  
14 that relates to a high-tech environment or something, I  
15 don't know, but income was number eight of 12 on the list.

16           MR. GEORGE MILLER: This is a fascinating  
17 discussion and I'm enjoying listening to it. Let me  
18 approach this from a different perspective. On page 11 of  
19 the reading material, we talk about having graduates who  
20 value community health, quote-unquote, and I want to  
21 correlate that with disparities and how do we address that  
22 issue. I would agree that we shouldn't throw money at a



1 problem, but there are some societal problems and ills that  
2 we need to address and can we address it through GME  
3 payments is a policy issue. I would think, at least in my  
4 mind, dealing with the disparity issue is one that's a  
5 laudable goal, and it seems to me that you would deal with  
6 that in the beginning of the educational process for medical  
7 students so we don't have the disparities that we currently  
8 see, and I think those disparities are well documented. At  
9 least, they are in my mind from what I've read.

10 So I just -- the question as we try to reform this  
11 through some type of recommendations, can we and will we  
12 address the disparity issue in that discussion if one of the  
13 goals is to create a community value and community health  
14 value in that process. So I just want to throw that out as  
15 a consideration as we deliberate.

16 MR. HACKBARTH: The principal mechanism right now  
17 for addressing disparities is through the Public Health  
18 Service Act and Title VII.

19 MS. BOCCUTI: I want to be fair to teaching  
20 hospitals and medical schools. They are doing some programs  
21 on these issues. There are reports that AAMC has -- they  
22 have missions for this. So I don't want to say that they

1 aren't, to be very fair. But in terms of Federal dollars,  
2 those programs are the ones I come up with as the largest.  
3 There are certainly others.

4 MR. HACKBARTH: Yes, good point. Good point.

5 DR. MILSTEIN: First, we know that the value of  
6 the educational output today is not a good fit with  
7 society's needs or the needs of Medicare beneficiaries or  
8 the goal of sustainability of the Medicare program. That  
9 was referred to in the testimony that we heard, what was it,  
10 last spring. And then the staff took the trouble of  
11 actually reading the RAND audit report and essentially  
12 matching up the content of what's going on in residency  
13 programs versus a reasonable portrayal of society's needs  
14 and it's not a pretty picture. And admirably, the  
15 representative from ACGME admitted that the overall grade  
16 nationally would be, I think he said C or C-minus or D, I  
17 can't remember, but it was not an honor grade. So we know  
18 that.

19 Now, the question is, well, what solutions do we  
20 put -- what are the broad -- and I think from my point of  
21 view, there are really two ways of going at this and they  
22 could be, I think, hooked together. One is to essentially

1 say, look, it is really hard for the government to  
2 essentially tell teaching institutions what to teach,  
3 disappointing as the audit results are, but let's at least  
4 make sure that -- disappointed as we are with the content,  
5 at least we're paying what it costs an efficient institution  
6 to deliver today's content.

7           Mark has warned, be prepared to be disappointed  
8 about our ability to differentiate efficient teaching  
9 function, as we last year in our report to Congress  
10 differentiated different hospital performance on value. But  
11 to the degree we can do that, that represents an option.  
12 Let's begin to gear how much we pay to what an efficient  
13 producer of medical education is achieving. That's not my  
14 preferred path, but it's a less ambitious path. Typically,  
15 there's a correlation between less ambitious and more  
16 politically feasible. So that's Path A.

17           And then Path B is we go -- we take that vision  
18 that we've carried through all of our other discussions,  
19 which is value, we want to increase the value of the health  
20 care system to American society and the value of the  
21 Medicare benefit to Medicare beneficiaries. We say we want  
22 to go after both content and the cost of -- both the result,

1 the output and the efficiency with which that result is  
2 achieved.

3 I think that tilts us in the direction of teaching  
4 institutions as accountable care organizations that for the  
5 first time have a clue as to how they're doing on both  
6 outcomes and process measures of quality and total health  
7 insurance fuel burn per person per year, which is what our  
8 measure of cost efficiency, because right now, these  
9 teaching programs are operating really in a vacuum on how  
10 they're doing on those two fundamental dimensions of value,  
11 and through participation in some reasonably robust vision  
12 of an accountable care organization, A, they would begin to  
13 get some clue as to how they benchmark compared to other  
14 educational institutions in producing the product that  
15 society desires, which is presumably a very nice environment  
16 in which to teach new doctors, and also I would hope in  
17 whatever version of accountable care organizations begins to  
18 take shape they would also begin to be held accountable not  
19 just for knowing what their scores are, but for bringing  
20 their scores up near the top, and that obviously would have  
21 very favorable ramifications for the content of what is  
22 being taught to health care professionals, be they medical

1 residents and/or others that we may want to address in a  
2 broader reform.

3 DR. KANE: First, I just want to say, as a member  
4 of an administration and a faculty of a school of public  
5 health that I'm getting ready to change our status to a  
6 medical school so that we can sort of sign up to have all of  
7 our costs recognized in some kind of a business that pays  
8 for all of our costs --

9 [Laughter.]

10 DR. KANE: But that is sort of the conversation  
11 I'm hearing a little bit, and I'm envious, but I'm also a  
12 little worried because the Medicare Trust Fund is what pays  
13 for this and I do think we need to articulate a little bit  
14 of a political philosophy about what is the Trust Fund's  
15 obligation to pay for everything it takes to educate a  
16 doctor, keeping in mind there are other sources out there  
17 and Medicare does -- and the individuals take on some of the  
18 costs of that and then they get it back when we pay their  
19 fees and help them make nice incomes in the range of, you  
20 know, three to five times that of the average person paying  
21 into the Medicare Trust Fund.

22 So just in terms of if you go too crazy about the

1 Medicare role and intervening in paying for everything, I  
2 think you end up kind of making it even more inequitable in  
3 the whole way of whose education gets paid for and through  
4 what means.

5           But that aside, this chart, I have a couple of  
6 reactions to it. One is on the demos and favoring ACOs.  
7 Maybe I'm just still warped by being in Boston, but my  
8 feeling is the ACOs, or the academic health centers are in  
9 many ways already in the best position to be ACOs and the  
10 community hospitals are often less advantaged. I mean, it  
11 sort of depends, obviously, market by market.

12           But I would be a little concerned about any  
13 favorability of handing out demo funds to ACOs unless they  
14 had a lot of community hospital involvement in that. I  
15 really think you can't help one group of competitors get an  
16 infrastructure and leave the other competitors to fend for  
17 themselves. So you do worry about favoring the academic  
18 hospitals in developing that infrastructure for an ACO over  
19 the rest of the hospitals that are in the marketplace, as  
20 long as we have competitive markets, anyway.

21           And then the other thing that I thought of is  
22 where that extra -- I am just so excited that there is all

1 this extra money out there that I would like to see great  
2 ways to spend it. But the VA is a national resource and a  
3 real treasure and it plays a huge educational role. I think  
4 almost every doctor goes through there for some period of  
5 time. Perhaps -- it's not on our list there, but I know --  
6 I mean, I'm pretty sure that many, if not most, residents go  
7 through the VA for some stint of their care. The VA is a  
8 pretty advanced delivery system that has a lot of ACO  
9 features and could there be some way to work with the VA to  
10 develop a competency, you know, make explicit competencies  
11 that every resident would achieve around being a team  
12 member, care coordination, learning how to use an EMR,  
13 learning how to use registries and stay in touch with things  
14 that are going on about chronic care management programs,  
15 whatever it is.

16 But that the VA, because it touches so many  
17 residents, it is a Federal -- I mean, it is a national  
18 resource, maybe a better way to think about how to make sure  
19 everybody gets those competencies is to think about -- or  
20 one way, anyway, is to think about how to get the VA to be  
21 more explicit about what it trains all residents to do in  
22 these kind of reform skills that we're wanting all residents

1 to do. Just a thought, but they are very well organized to  
2 train people in these new kind of integrated and accountable  
3 care type skills.

4 MR. HACKBARTH: It might be helpful, Cristina,  
5 just to remind people of the size of the boxes, how many  
6 dollars are in the boxes.

7 MS. BOCCUTI: Sure. From Craig's calculations,  
8 roughly, from the work that he has done, it is about \$3  
9 billion in each box. So there are about equal shares for  
10 this. Does that answer enough of your question? This is  
11 for 2008. That was the estimate for 2008.

12 DR. BERENSON: First, I want to briefly disagree  
13 with Karen about organic chemistry to make a point about  
14 what our purview should be. I should have flunked organic  
15 chemistry. I only passed because the professor decided to  
16 grade on a curve and give my completely unsuccessful  
17 performance a passing grade. I would not have gotten into  
18 medical school today. I think this notion that you have to  
19 have this scientific aptitude is misplaced, but the point  
20 is, I don't think the world would benefit if Karen and I  
21 argued this out and MedPAC adjudicated over our different  
22 views of the role of the scientific aptitude.



1 [Laughter.]

2 DR. BERENSON: I think we are sort of getting into  
3 territory that is not ours. So that makes me a little  
4 nervous. I think we have to be very concrete and specific  
5 about GME funding, which is a Medicare issue.

6 Having said that, I do think, because MedPAC is  
7 influential, is looking out for 44 million Medicare  
8 beneficiaries, I think we can be clear about the  
9 deficiencies that we see in the current workforce and how it  
10 doesn't well serve Medicare beneficiaries, and then  
11 participate at meetings in testimony, but leave the specific  
12 policy prescriptions to others who have more direct  
13 knowledge or jurisdiction on those particular issues unless  
14 something just pops up that we think there's a really  
15 opportunity for us to be decisive. So I think I'm trying to  
16 say, we can look at the whole breadth of this, but our focus  
17 on specific policy recommendations should be about GME.

18 I wanted to go to the ACO one. I'm a little  
19 concerned that we don't really know what an ACO is. I'd be  
20 interested in, I mean, looking at -- there's a lot of  
21 medical training programs in California. They, in some  
22 ways, have been living in a world at least where they're

1 accountable for costs and perhaps for quality with recent  
2 initiatives by IHA and others out there. I'd be interested  
3 to know whether the nature of medical education is affected  
4 at all by being in that kind of an environment. I'm not  
5 sure. I think we might be having too great expectations on  
6 creating a structure called an ACO, that it will  
7 dramatically impact the sort of quality of medical  
8 education. Maybe we could help contribute to that, but I  
9 think just sort of laying out an ACO criteria and then  
10 differentiating payment makes me a little worried.

11 DR. MARK MILLER: In some ways, I think this  
12 picture is an attempt to bring together some of the thoughts  
13 that you've just articulated here. One of the things to  
14 think about here is whether you want to take the current GME  
15 funding, which is divided into three boxes on this graph,  
16 and devote it to other objectives and have it spend out in  
17 different ways.

18 So while at the top it says demos, and it says  
19 ACOs in parentheses, I think some of the thought there is if  
20 the academic teaching facility was willing to be first in a  
21 demonstration -- whether it's ACOs, bundling, whatever the  
22 case may be -- would some money be linked to that?

1           The second box is to say -- and this has been  
2 raised by many people, and I think raised by Karen again --  
3 whether the money goes to the hospital or to the program.  
4 And we can talk through a bit of that.

5           And then the third piece is sort of -- well, the  
6 money wouldn't -- would go back to the Treasury. And then  
7 the idea is general revenue would be boosted to go to some  
8 of these other programs to deal with some of the front end  
9 pipeline issues that some people raised.

10           The reason I raised it at this juncture is Bob was  
11 saying you should be focused on GME and making decisions out  
12 of that. What I want to be clear is that's the GME money.  
13 You could still think about how to devote it to some of your  
14 objectives.

15           I'm just trying to pull that together.

16           MR. HACKBARTH: Thanks, Mark. That's helpful.

17           And so focusing on the ACO piece, the notion there  
18 is that we would respect that we don't have the expertise to  
19 redesign the curriculum and all that. The issue being  
20 raised is should we take a piece of the Medicare money  
21 already being invested in medical education -- it's not new  
22 money -- and say, well, let's condition this on the

1 institution's willingness to invest in a 21st century  
2 environment. And then there are all sorts of questions  
3 about how well we can define that and who qualifies for the  
4 money. And then there's Bob's ultimate question, will that  
5 actually alter behavior.

6           It seems to me that it would be good if we could  
7 go to some places, whether there's any literature on places  
8 about whether medical education differs in environments that  
9 we perceive to be different. Is it different at the Mayo  
10 Clinic or is it different at Kaiser Permanente? Has there  
11 been literature on that?

12           DR. CROSSON: Well, I can answer that. So just in  
13 terms of that, yes. We have about 400 residents in  
14 California, in our hospitals in Southern California --  
15 Northern California. If you line up the issues in terms of  
16 kind of like where are these gaps between what residency  
17 programs or the whole pipeline is producing versus what  
18 society needs, I think in some areas, we are able to address  
19 those.

20           For example, the issue of not producing enough  
21 generalists, I think we have, because of the needs of our  
22 program, the nature of our program, we obviously have

1 focused on that and I think we've probably done a pretty  
2 good job in that area.

3 In terms of the issue of diversity, I don't know  
4 that we've done much better than anybody else because it's  
5 affected by what is available. We do have outreach  
6 programs, but I wouldn't maintain that there's anything  
7 special about our organization that has enabled us to do  
8 that as well as it might be done.

9 And I think in the area of geographic access, of  
10 course, it's kind of irrelevant because we're focused mainly  
11 on where we're in business, and mostly that's not in rural  
12 areas.

13 But in the fourth area, I think, which is to try  
14 to produce individuals who are equipped for 21st century  
15 medicine, you know, for example, to be willing to practice  
16 medicine in a transparent environment, be comfortable with  
17 that, to practice medicine with an inherent idea that there  
18 is some responsibility for the cost that is generated by the  
19 pattern of decision making, those areas, I think, we have  
20 been successful.

21 MR. HACKBARTH: If we can, in our chapter, try to  
22 address this link in the argument, if you try to create the

1 incentive, will it make a difference, that would be helpful.

2 MS. BOCCUTI: I'll mention that we're going to try  
3 and look at some places that deal, in particular, with non-  
4 hospital training and sort of get some ideas of ways that  
5 they overcome some barriers and really support non-hospital  
6 training, and we're going to try and look at places that  
7 aren't necessarily the Mayos that you talk about because  
8 there are all sorts of other issues that make them stellar  
9 examples. So we'll be able to get back with you later in  
10 the spring on some of our findings with regard to that.

11 MR. HACKBARTH: Jay, did you have a question?

12 DR. CROSSON: Yes, and I'll shorten it because I  
13 just made a few of the points. But I think the first thing  
14 I'd just like to reiterate from the presentation is that  
15 there is a problem here, and as I just said, there does  
16 appear to be a gap between what's being produced and what we  
17 think society needs.

18 Now, I think everybody can argue with some details  
19 around that, but I do think that there does appear to be a  
20 disproportion right now between the apparent growing  
21 importance of competent generalists and the flow of medical  
22 students into those careers. Now, I know, Bill, the GAO

1 says that's being currently replaced with foreign medical  
2 graduates and could be replaced with other practitioners,  
3 and I'm not discounting that. But I do think that we don't  
4 know for sure that going into the future, that it will  
5 always be satisfactorily replaced with foreign medical  
6 graduates and I think there's probably some natural  
7 limitation to the capabilities of other than physicians.

8           So I'm not comfortable saying that just because  
9 the data shows that up to this point, those slots have been  
10 filled with foreign medical graduates, that we can  
11 necessarily say, therefore, it's okay to have a policy which  
12 says we're not going to deal with this situation that is  
13 disincenting American medical students from going into  
14 generalism.

15           I think we talked about the other values --  
16 diversity, geographic access, and capacity or capability to  
17 practice in the 21st century. I like slide 13 because I  
18 think what it basically points out, not to be terribly  
19 reductionist, is that as Bob was saying, this is a Medicare  
20 Commission and so we have to look at what tools we have and  
21 what we might be able to use to influence that, recognizing  
22 that I don't think we can expect to do it all by ourselves

1 or that we have the expertise to know exactly what to do.  
2 But we do have this one tool. It is that black box that  
3 says "extra."

4           It's a tool we've reached for before when we made  
5 the recommendation of reducing by one percentage point that  
6 box and we suggested that, at the time, as I remember, that  
7 that money be transferred into paying for value. We thought  
8 that there was a -- this tool was a legitimate tool for us  
9 to use to try to further other ends that we thought needed  
10 to be furthered, and I think this suggestion is along those  
11 lines.

12           And what I read it is -- as I read that, those  
13 arrows there, is not let's just take that money and dump it  
14 into ACOs or dump it into a question of how the training  
15 ought to be organized at facilities and how the money should  
16 flow, or for that matter, just return it to the Federal  
17 Treasury and hope that it's put into Title VII and/or Title  
18 VIII, but that we could say we're going to take a leadership  
19 position on the part of MedPAC. We do have this tool, and  
20 we want to work with others, whether it's other branches of  
21 the government, whether it's the VA system, whether it's  
22 private payers or other ways of extending the base of



1 funding for medical education, we want to work with others  
2 using this tool and we're going to try to advance it along  
3 these parameters.

4 DR. SCANLON: First, I guess, close to this point,  
5 in terms of understanding this chart, I mean, I think that -  
6 - I may have misheard you, Glenn, but I don't think we want  
7 to say that we're taking -- if we were to move this money  
8 that's in the "extra" box, that we're taking money from  
9 graduate medical education, because what our work has shown  
10 is that this is money that is not being -- and these are not  
11 costs of graduate medical education.

12 MR. HACKBARTH: Right.

13 DR. SCANLON: And so it's money that we're, in  
14 some respects, overpaying.

15 At the same time, the residents' cost box, we  
16 don't cover the full cost of the direct medical education,  
17 and that's something where the hospitals do put in sort of  
18 additional funds. Now, that does not concern me, in part,  
19 because the hospital is making an economic decision and it  
20 is beneficial to them to have a residency program and their  
21 private insurers and other payers are paying for this, even  
22 though it may seem indirect, because it's built into the

1 overall cost. And so, again, so I'm not worried about that,  
2 but I think it's -- we shouldn't ever be accused that we're  
3 shortchanging medical education if we were to move some of  
4 this money.

5           Two other points. One is about sort of the Title  
6 VII and the National Service Corps and those kinds of  
7 programs. Yes, I think they are effective in terms of  
8 accomplishing some of the goals with respect to diversity  
9 and getting people into rural areas, but I think we need to  
10 look at them from the perspective of how can we make them  
11 more efficient? And historically, they have not all been  
12 equal in terms of sort of the retention rates, in terms of  
13 people that participate in the programs and in fulfilling  
14 obligations, or even willing to sort of stay there for your  
15 obligation. There are people who just will take the money  
16 and say, I'll pay the penalty. I want out of this because  
17 this is not acceptable to me. So how do we find ways to  
18 reorganize those programs to make them as effective as we  
19 possibly can?

20           The other point is about, sort of, I guess, kind  
21 of a general reaction to the recommendations, which would be  
22 let's not prematurely lock ourselves into recommendations

1 about graduate medical education or medical education more  
2 generally without understanding better sort of what the  
3 needs of the workforce are for the future, because I think  
4 that it's much bigger than physicians. It's much bigger  
5 than, in some respects, the current professions we have.

6 I'd refer everybody to the article in the Journal  
7 of the American Medical Association yesterday by Bob Brook  
8 talking about how you can think about different types of  
9 personnel doing sort of different sort of functions, and I  
10 think that has very significant implications for medical  
11 education. It has very significant implications for the  
12 projections that we have of the workforce going forward in  
13 the future.

14 And in terms of generalists, Jay, I understand  
15 your concerns, but I also sort of feel that until we define  
16 a world where we really understand what we want a physician  
17 to do, it's hard to say what we want a generalist physician  
18 to do. I can see in some ways tasks that are right now the  
19 norm for a generalist physician being given to others. And  
20 even some of the new tasks that we're talking about for a  
21 generalist, this idea of coordination and counseling.

22 I have real concerns about whether or not all of

1 that science education, all of that sort of medical  
2 education, is really the right preparation for coordination  
3 and counseling, and when we say we should add that to  
4 residency programs, I'm still questioning myself, why did I  
5 make this big front-end investment on things that are not  
6 being used sort of extensively in the activity? It is not  
7 that someone who is engaged in coordination shouldn't be  
8 able to draw upon a physician or counseling, but it may not  
9 be that I need somebody that -- I mean, essentially, that  
10 expensive, that knowledgeable, to do that function on a  
11 regular basis.

12 So I think we really need to start to think about  
13 sort of what are the tasks and what are the occupations that  
14 should exist to best match the tasks that we have for the  
15 future.

16 MR. BERTKO: Okay. I'll try to knit a couple  
17 things together and be a little simpler.

18 First, Cristina, I want to show support for this  
19 diagram on slide 13. I think it's a good way to think about  
20 it. And following both Jay's comments and Bill's, I've  
21 interpreted that the box that says "extra" as being  
22 designated not so much to support an ACO or a medical home

1 or anything, but to support the training for the skills that  
2 would be useful there. I had a couple of them, maybe to  
3 follow Jay's and Bill, some of the care coordination types  
4 of training, use of HIT and EMRs, and following budgets,  
5 learning how to do budgets and that cost awareness that I  
6 think Jay mentioned.

7           So now we give you the hard part of writing a  
8 recommendation that wraps all these things up, but I would  
9 like to say that sounds like the right direction to head.

10           MR. HACKBARTH: Let me just pick up on that,  
11 because I think this is an important issue. One notion  
12 about this is to try to identify the skills that are needed  
13 to practice 21st century medicine and specifically reward  
14 those. Logically, that entails somebody saying, here is the  
15 list. Here is the curriculum for the 21st century physician  
16 and the Federal Government is going to buy these curricular  
17 elements.

18           An alternative approach is to say, that may be not  
19 the right thing for at least MedPAC to be doing. Maybe  
20 that's something that ACGME and others ought to be doing,  
21 but that's not really MedPAC's bailiwick. But maybe we can  
22 support that by saying, if we encourage teaching

1 institutions, or at least some of them, to themselves  
2 reorganize to be places that demonstrate, exhibit the  
3 characteristics of high-value providers, that will create an  
4 overall environment for training that is better than exists  
5 today. So it is an indirect approach.

6           What I had in mind about this is we're doing the  
7 second. We're not doing the curricular approach and saying,  
8 here is what we're trying to pay for with this extra money.  
9 Instead, what we would be trying to do is use the money to  
10 encourage at least some teaching institutions to evolve  
11 towards high-value providers.

12           Now, there are the questions about whether that  
13 will alter the content of medical education and whether that  
14 indirect approach will be effective. But that's what I have  
15 in mind.

16           MR. BERTKO: And I would respond, Glenn, I am open  
17 to either way, and the way we've done it sometimes, if you  
18 took that second approach with a more indirect way, I would  
19 hope that the discussion underneath it could then say we  
20 think the kind of -- these four, five, ten kinds of skills  
21 are the ones that should be built into that indirect  
22 approach.

1 MR. HACKBARTH: Yes.

2 MS. HANSEN: I think the areas that I had really  
3 have been covered relative, especially, to the last couple  
4 of discussions about what are the outputs that we're really  
5 looking for for the 21st century aspects. And then one is  
6 the disciplines as we've known them versus the disciplines  
7 that may evolve and may actually look quite differently.  
8 Just as some people are doing skills now or treatments now,  
9 say we were talking about doing sigmoidoscopies that are  
10 necessarily not done by physicians but perhaps advanced  
11 trained clinicians, and we need to begin to think about the  
12 needs of the population as compared to the structures that  
13 are traditionally there.

14 So however we do this indirectly. We've talked  
15 about this before. I've actually brought up, and maybe this  
16 is more moot now, but even the knowledge of how to deal with  
17 the interface of comorbidities and polypharmacy, which is  
18 reflective of where the population is going. So however we  
19 get to the competency of producing the skills, and not by  
20 prescribing curriculum but the outputs, that is what I would  
21 look for.

22 I mentioned earlier this morning, too, the point

1 of both -- two things. One is what is happening in other  
2 disciplines and also with Title VII, Title VIII and the  
3 Service Corps. The first one, on the discipline, right now,  
4 there is an ongoing, or just recently started initiative at  
5 IOM about where the future of nursing is going, and this is  
6 a very close companion piece to really thinking about where  
7 the future of the disciplines is. So I hope we -- and I  
8 talked to Cristina about it and Craig briefly, just to make  
9 sure we knew what was happening on that side, coupled with  
10 what's happening in legislation right now. There is in the  
11 Senate Finance bill things that relate to graduate nurse  
12 education, so instead of GME, but it's, again, about dealing  
13 with a comorbid population. So there's something happening.

14           And then finally to the point of the current  
15 programs that seem to produce the most, at least, placement  
16 and continuation of people in areas such as community  
17 clinics or rural areas, if that has shown to be effective,  
18 and I think to Bill's point, can we make them more  
19 effective, because we know that that does produce the  
20 traction of where needs will occur, so perhaps whether or  
21 not we refunnel the money or part of the money toward these  
22 other programs, which I know is very tough, but it's just



1 like that's where the production will start, it may be a  
2 consideration.

3           And then, finally, I think others have brought  
4 this up and I want to emphasize this again, since not all  
5 care will be in hospital institutions, how we relook at that  
6 in terms of the distribution of that kind of funding in the  
7 future with GME funding.

8           MR. BUTLER: First of all, Cristina, thanks for  
9 the opening remarks that at least GME is a pretty popular  
10 product in the fact that an awful lot of international  
11 medical grads certainly want to come here and we don't send  
12 as many people to other parts of the world for graduate  
13 medical education. So at least it's a popular product and,  
14 I think, does a lot of good things beyond the issues we're  
15 discussing today.

16           I also said last month that I like to start with  
17 what do we want out of this and line up the money last. So  
18 we've been focusing on a chart that lines up the money.  
19 Having said that, I find this a very helpful framework with  
20 which to make my comments, so it really does help to see  
21 where we should be focusing. So let me make my remarks in  
22 that context.

1           If you look below the line, the direct GME, that  
2 really was an obligation of the Medicare program when it  
3 started. We're going to pay for our share of the graduate  
4 medical education cost. Above the line came about when DRGs  
5 happened because trying to level the playing field to look  
6 at the collateral cost impact of having residents. And that  
7 was a convenient -- not a convenient, a statistically-driven  
8 number that may have been too high or is too high and  
9 certainly is too high now if that's what you're trying to  
10 capture. So they're a little different, the origin of  
11 these. And for some of those reasons, tinkering with the  
12 bottom half of this is a little bit harder to do with a  
13 little bit less yield to me, in general, of where we ought  
14 to be focusing our efforts.

15           And let me say that in yet another way. I think  
16 we have about two percent of the Medicare budget tied up in  
17 this chart, \$9 billion when you take all three, right? And  
18 two-thirds is above the thing. And you say, Nancy,  
19 regardless of how much we commit here, the newly-minted  
20 resident or fellow and how they practice lifelong has a far  
21 greater impact on the sustainability of the Medicare program  
22 than these dollars, and that's where the real energy needs

1 to go.

2           Now let me back up on the bottom half of the  
3 chart, if I could, for a minute. I do think we could  
4 comment on some things like caps, for example, acknowledge  
5 that the full costs aren't covered, that, in fact, if there  
6 are new slots that are to be given out as health reform  
7 legislation says, maybe they ought to be given to primary  
8 care. We certainly shouldn't make the number of positions  
9 available a barrier to the primary care, so to the extent  
10 that that helps.

11           But we know that incentivizing institutions,  
12 whether it is reducing down to 50 percent the payment or  
13 even if you went 150 percent to offer more slots in primary  
14 care, I don't think that it's going to solve it, because  
15 it's not the institutional incentive. It's the individual  
16 physician who's picking the specialty that needs to be  
17 incentivized, either through higher primary care payments  
18 or, in fact, through loan forgiveness kinds of programs. If  
19 they're significant enough, it would have a direct impact.

20           So I think that we can comment on caps, but I  
21 don't think we're going to make major contributions, unique  
22 contributions as a Commission on the bottom half of the

1 chart.

2           So now let's go to the top half of the chart, and  
3 I think, Glenn, you're hearing a consensus around the  
4 curriculum issues versus the training environment. At  
5 least, that's what I'm hearing, and I would reinforce that  
6 definitely as being the area of focus.

7           So I think where we're a bit -- and this is kind  
8 of my passion -- how do you create a kind of meaningful user  
9 kind of concept in a delivering environment that says you've  
10 got to earn up to the -- if you can demonstrate that, then  
11 you can earn your IME dollars, if you will. How do we  
12 create that menu? And I do think that it's a little  
13 simplistic to just put ACOs up there, because it does beg  
14 then Nancy's issue, are they getting subsidies that others  
15 aren't. I don't think it should be tied specifically to  
16 that.

17           Having said that, I would say that there are  
18 things like the AAMC's effort to advance Health Innovation  
19 Zones, which is a comparable concept, are things we would  
20 want to incentivize, but I don't think that simply you get  
21 money for ACOs and others don't. I agree with that. So I  
22 think we need a little bit more robust list of what that

1 environment looks like and how we might do that.

2 I think the beauty of what we're doing here is you  
3 could take all of our health reform chapters -- bundled  
4 payment, medical homes -- I mean, this is our sweet spot.  
5 This is where we've tried to define the system of the future  
6 already and we're trying to just line up dollars in this  
7 area that may be supportive and reinforce that. So I think  
8 it is what we do, and I think we could say this is where  
9 things are heading and we need to incentivize that to occur.

10 My last comment would be on the residency program,  
11 and I think what you mean by this is would you give money  
12 directly to residency programs versus institutions. I do  
13 feel pretty strongly about this not being a good idea for a  
14 couple of reasons. I'm not saying there shouldn't be  
15 exceptions, but if you think about we're trying to create  
16 coordinated care across systems, this does just the  
17 opposite. It puts them in silos. And even though I  
18 understand the need to focus on primary care and family  
19 medicine, if we send money directly there, you know, what is  
20 the message we're sending?

21 I think that, for example, having psychiatrists  
22 work with family practice or internal medicine to know how

1 to understand the management of mental health, or having  
2 cardiologists partner with internists and family practice to  
3 handle congestive heart failure or readmissions, the  
4 multidisciplinary dialogue and education that has to occur  
5 could somewhat be hurt by sending money directly to  
6 individual programs as opposed to institutions of care. So  
7 I have concerns about that.

8           The other concern about it is simply that if we  
9 follow our principles and send money directly to some of  
10 these sites and base it on the percentage of Medicare, the  
11 percentage of Medicare in some of these sites is often low,  
12 and if they're expected to also have the costs of the  
13 program borne, the economics don't work very well and it  
14 becomes logistically pretty tough to have some of these  
15 sites say, okay, we'll do this.

16           So obviously I'm a little bit concerned about  
17 separate payments directly to programs because I think it  
18 runs counter to our systems of care that we're trying to  
19 create and reinforce in what we're doing overall.

20           MR. KUHN: I think the discussion on this has  
21 really been terrific, and the notion that I've heard from  
22 some of the other folks so far is the issue of the

1 interdependencies here, that this program and all the  
2 programs we've been talking about go together. So the fact  
3 that as we look at this and we're thinking about how is the  
4 alignment of this with the other things that the Commission  
5 has recommended or things where we want to see health care  
6 go is absolutely critical. And so maintaining that  
7 alignment, maintaining and having the full understanding of  
8 those interdependencies is going to be critical for us as we  
9 go forward.

10           So having said that, when I look at this, as I  
11 look at other parts of the Medicare program, I think of it  
12 as a series of signals and tools. And when you think about  
13 signals, the issue is here, as kind of Peter said, what do  
14 we want? And Glenn, I think, nailed it when he said what we  
15 all want is high-value providers, period. End of story.

16           So how does this particular program help us kind  
17 of do that and move that forward, and how are we able to get  
18 what we want to pay for out of our medical education in  
19 terms of making sure that we have training with  
20 multidisciplinary teams, that we have folks that are  
21 training that are looking at IT, but above all else, that  
22 we're looking at physicians who are coming out of the system

1 who really understand the issue of cost effectiveness in  
2 terms of the delivery of care, and that has to be absolutely  
3 critical to that.

4           So I think the signals are pretty clear, what we  
5 want to do, to me as we go forward here. The real question,  
6 then, is what are the tools that we have to deploy and how  
7 do we use those?

8           And I agree a little bit with, I think it was what  
9 Karen said earlier, is that I don't think we want to meddle  
10 in the accreditation area, but I think we can articulate a  
11 set of core competencies that we think ought to be part of  
12 this process as we go forward and I think that makes a lot  
13 of sense. And then how do those core competencies translate  
14 into maybe new delivery models?

15           I think the ACO is a good one that ought to be  
16 incentivized, and we ought to try to move that. But there  
17 might be others that are out there, because I think at the  
18 end of the day, the hypothesis that we all have is that if  
19 this is the way physicians are trained in the future, then  
20 when they come out of school, these are perhaps the new  
21 delivery systems they'll want to practice in and will  
22 hopefully look for those. I mean, at least that's the



1 hypothesis I'm going on.

2           So the fact that we can look at both core  
3 competencies and then perhaps, I think as Peter said, and I  
4 agree with him, look at maybe a menu of options of how that  
5 could be done through delivery systems, of which ACOs is  
6 one, might be a good way for us to think about this on  
7 recommendations.

8           MS. BEHROOZI: Yes, I like the way both of you,  
9 Glenn and Peter, talked about the characteristics of the  
10 institution and the environment. In a way, I feel like  
11 we're almost looking for a new way to justify, empirically  
12 justify some more IME costs, kind of. So I think Peter  
13 said, or used the phrase, a more robust list of what  
14 comprises the environment.

15           What I'd like to add to that, or my take on that  
16 isn't just the environment for training physicians, because  
17 we're talking about the workforce for the future, and in the  
18 paper you spent -- and actually, in the presentation you  
19 also spent some time talking about non-physician providers  
20 and some of the attitudes that physicians will need to have,  
21 not just the things that they need to learn in an academic  
22 way. So some of the things that I would put on the list

1 would include whether the institution has a robust program  
2 for training non-physicians, whether R.N. or physician  
3 assistant or other kinds of medical practitioner parts of  
4 teams, non-hospital experience, which you've adequately --  
5 more than adequately -- discussed.

6           One of the things, actually, that we had talked  
7 about in a much earlier session on this, last year, I guess,  
8 was the rather dismal proportion of institutions that are  
9 training doctors that are not wired, that don't have robust  
10 IT systems, and that's the kind of thing that clearly takes  
11 some money to implement and ought to be recognized as an  
12 essential part of a good training environment.

13           And going to George's point about the same line I  
14 underlined, educating and graduating students who value  
15 community health, yes, people who are from low socio-  
16 economic backgrounds or of a different ethnicity than the  
17 majority, whether African American or immigrants or  
18 whatever, are, yes, innately more predisposed to work with  
19 underserved populations. But they're never going to  
20 comprise the majority of physicians, or not for a long time,  
21 and it's absolutely essential to diversify the ranks of  
22 physicians, but it's also essential to make sure that all

1 physicians, whatever their own ethnicity or their own  
2 background, are able to care for the range of patients who  
3 need their care. You know, you can't be -- you shouldn't be  
4 able to be selective about who your patients are and how you  
5 treat them.

6           So what does that mean in the context of medical  
7 education? Well, to avoid being prescriptive about having  
8 courses in diversity and tolerance and all of that stuff,  
9 maybe it's worth looking at the patient population that the  
10 institution serves, and I wonder if there's literature  
11 showing that people who are training in institutions that  
12 are in low socio-economic demographic areas, obviously high  
13 Medicaid proportions, whatever, are more likely to serve  
14 underserved patients no matter what their own race or  
15 ethnicity or socio-economic status is, if they're more  
16 likely to serve the underserved than people who practice in  
17 more elite, if you want to call it, institutions. So I  
18 think that might be something to put on the list.

19           MS. BOCCUTI: I'm not sure if there's real  
20 research on that, but we should note that teaching hospitals  
21 in general are more likely to treat these populations. So  
22 they are in there. I mean, Craig might want to speak to

1 that more, but we'll look into that kind of research.

2 DR. DEAN: Thank you. Obviously, this is a very  
3 interesting discussion and something that's near and dear to  
4 my heart. I'm especially concerned about the pipeline  
5 issues, but I also recognize that Medicare may well not have  
6 the tools that we really need to deal with that. I would  
7 really support the idea that maybe we need to somehow give  
8 additional support, whether it's moral support or dollar  
9 support or whatever, to the programs that really have a more  
10 direct impact, Title VII, National Service Corps, AHECs,  
11 those things, because they really do -- they've got  
12 experience and they have been shown to be effective.

13 With regard to the admissions issue, I also think  
14 that's a serious concern, and I'm certainly sympathetic to  
15 Karen's point. At the same time, the trends we see are not  
16 reassuring. We're getting fewer and fewer people from  
17 underserved areas and from minority groups and so forth and  
18 larger proportions of people that come from the majority  
19 population and elite colleges and so forth who are much less  
20 likely to respond to the needs of those groups.

21 And, by the way, I would add to the underserved  
22 groups, I think it would be worthwhile mentioning American

1 Indians, because they are probably the most underrepresented  
2 of all of the minority groups in the mix of incoming  
3 students.

4           To move on to the whole residency issue, where  
5 obviously Medicare does have some significant impact, I  
6 think we, first of all, need to say, I mean, why do we have  
7 residencies, and they really, as I see it, there's two  
8 functions: One, to staff the hospital, and one, to provide  
9 an educational experience. And it seems to me that it's  
10 very appropriate that Medicare should support the second and  
11 not necessarily the first, but unfortunately, I think we've  
12 done both over the years.

13           I'm very attracted to the idea that we should  
14 provide some sort of rewards or incentives to those programs  
15 that really have shown that they've taken the delivery  
16 system reform seriously and have provided their trainees  
17 with the tools to really function in a new delivery system  
18 and to function effectively.

19           I think that, especially with regard to primary  
20 care, one of the things that is -- we talk a lot about the  
21 inequities of payment, and those are clearly major issues,  
22 but I think those are not the only issues and I think,

1 again, Karen mentioned it when she talked about there's a  
2 lot of high-paying general surgery positions that are going  
3 unfilled for other reasons, and I think that's also true in  
4 primary care. And so I think if we're really going to deal  
5 with this shortage, we have to demonstrate to new trainees  
6 that you can do sophisticated, rewarding primary care in a  
7 modern environment that really makes use of the skills that  
8 you receive in your medical training.

9           And I would take issue a little bit with the whole  
10 idea that care coordination is just simply making sure that  
11 people get their appointments on time and so forth. In my  
12 experience, a lot of care coordination has to do with, I'm  
13 taking ten drugs and I don't want to take them and what am I  
14 going to do? I'm just going to stop them all. Well, we see  
15 that happening a lot, and that's a pretty high-level  
16 judgment. If we look at that list and you say, well, okay,  
17 there are some trade-offs here. We probably can do away  
18 with this one and this one, and if I cut this from ten to  
19 six, would you be willing to do that?

20           Or the cardiologist tells me to one thing and the  
21 endocrinologist tells me to do something different and I'm  
22 not going to do either one. That also is a fairly high-

1 level decision making, to negotiate what can we do that's  
2 least likely to get that patient, well, back in the  
3 hospital, to be very specific about it.

4           But the challenge is to -- and the focus of the  
5 medical home movement, which I would actually put, I think,  
6 right alongside ACO or maybe even above it, because in my  
7 mind, it's the medical home structure that really provides  
8 the tools to do these things. The ACO is a sort of  
9 financial structure that will take advantage of what a  
10 medical home can provide. But the goals of the folks that  
11 are really the evangelists for that structure are that we  
12 should have every professional working at the top of their  
13 license and that we need physicians, but we also need a  
14 range of other competencies and we need to make sure that  
15 the physicians there are not filling out authorizations for  
16 durable medical equipment or the other nonsense that we do  
17 spend a lot of time on and that turns a lot of current,  
18 today's primary care doctors -- leaves them frustrated and  
19 feeling that they're not doing anything significant. We've  
20 got to put the primary care physician back into a role where  
21 they really feel that they're doing something important,  
22 because we know there's an important job to be done, so I'll

1 stop.

2 MR. HACKBARTH: I think we've made some progress  
3 here. Jay is going to offer some comments on where he  
4 thinks he hears some consensus. But before he does that, I  
5 just want to sort of work on a different plane for a second  
6 and talk about issues that this framework addresses and what  
7 it doesn't address.

8 Let me start with the things that it would not  
9 address. So this would -- if we go with a framework like  
10 this and embellish it, tweak it, et cetera, we would not be  
11 explicitly addressing the issue of caps, you know, should  
12 Medicare fund training for more physicians. We wouldn't be  
13 taking a position on that one way or the other. That would  
14 be set aside.

15 A second thing that would be set aside and not  
16 addressed is the appropriate mix of specialties for Medicare  
17 to support in training. We would be agnostic on that.

18 A third is that we wouldn't take on issues about  
19 the appropriate curriculum, whether in undergraduate medical  
20 education or in graduate medical education. We wouldn't  
21 address that directly, but perhaps indirectly later on.

22 Another issue we wouldn't address is the overall



1 financing scheme for graduate medical education. The  
2 original idea was that Medicare would be joined by private  
3 payers and we would have a scheme where all of the people  
4 who benefit from the health care system contribute in  
5 explicit ways to financing this activity. There are still  
6 some people who would like to go down that road, but again,  
7 we wouldn't address that. We would be silent on that  
8 question.

9 By not addressing those issues, we would be  
10 avoiding some thorny thickets.

11 Now, what we would be beginning to address is how  
12 can we get better output for the Medicare dollars above the  
13 empirical amount. So the direct GME covers the direct costs  
14 of training and it's below the line. We're basically not  
15 talking about that. We're saying, it's appropriate for  
16 Medicare to pay some indirect medical education because  
17 there are costs beyond the direct that are legitimate and  
18 should be supported. But we've got this \$3 billion that  
19 isn't in either of those categories, and we're not saying we  
20 ought to take it out of the system altogether, but we ought  
21 to redirect those dollars to get more value for the  
22 expenditure.

1           If we were -- one of the points of disagreement  
2 that came up was around the residency program piece of it.  
3 Karen, not so much today but in previous meetings, has  
4 raised the issue of why does all this money go into the  
5 hospital general fund and then the training programs need to  
6 go to the hospitals to get their activities funded. Some of  
7 our guest speakers have raised the same point.

8           And the idea here is, well, we could address that  
9 issue and say that at least some of this money is not going  
10 to flow through the hospital budget, but flow directly to  
11 training programs. Now, there are lots of important issues  
12 there about who would receive the money and what not that  
13 would have to be addressed, but that's potentially an area  
14 to get into.

15           I hear some disagreement. Peter has made a strong  
16 argument that that would not be a way to go, so we'd have  
17 some work to do, but that's an important issue possibly  
18 addressed.

19           Closely related to that is that one of the odd  
20 features of the current system, from my vantage point, is  
21 that all this money on the indirect side is linked to --  
22 well, in fact, also on the direct side, it's linked to

1 Medicare volume. From a societal standpoint, I'm not sure  
2 that linking it to Medicare volume is a particularly  
3 rational way to deploy our resources. If we were to say  
4 we're going to take some of the indirect medical education  
5 above the empirical amount and start distributing it other  
6 ways that would no longer be tied to how many Medicare cases  
7 the hospital has, it could be tied to the ability of  
8 programs to develop rich ambulatory environments to train  
9 their physicians.

10           Then the last thing that we would address in this  
11 framework is that if society wants to address some of the  
12 pipeline issues about mix and diversity and where people  
13 choose to practice, probably the best vehicle for doing that  
14 is not through the Medicare program, but through the Public  
15 Health Service Act, and we could endorse that as a way to go  
16 and perhaps also say that, again, some of this money ought  
17 to be redirected to that channel.

18           So that's a sense of some of the thicketts we would  
19 be avoiding, about specialty mix and caps, and some of the  
20 ones that we would be wading into and have to address down  
21 the road.

22           Jay, you had some thoughts about --

1 DR. CROSSON: So is this a softball across the  
2 plate or am I in the dirt?

3 [Laughter.]

4 MR. HACKBARTH: He's got all these wonderful  
5 notes. Just read them.

6 [Laughter.]

7 DR. CROSSON: So the notion is sort of where do we  
8 think the consensus is, and I think Glenn has spoken to some  
9 of that already, and what could we imagine as either  
10 something that we're going to write up or a set of  
11 recommendations or directions for future work. And I think  
12 my sense of it is I'm going to suggest something more to the  
13 latter as opposed to saying, gee, we're ready for some hard  
14 recommendations here.

15 But I think there are some things, for example,  
16 that I see sort of consensus on. The first one is that I  
17 think we've identified, and I think we can speak to the fact  
18 that there appears to be a gap between what the pipeline, if  
19 we want to call it that, is producing and what is needed in  
20 the future. Everybody has a slightly different idea about  
21 that, but I think in almost everybody's comments, there's  
22 been a recognition of that. And I think for the Commission

1 to say, we recognize this, and then to try to write down  
2 what we think some of those gaps are would be of value.

3           The second one is I think we have identified, and  
4 I heard pretty much consensus that we've identified that we  
5 have a tool, one tool that we could use to address this. So  
6 the larger problem is sort of physician manpower. We get  
7 reduced now to the residency program's or training program's  
8 impact on that because that's where we have this Medicare  
9 tool, which is paying for graduate medical education.  
10 Reducing further, we have this box which is called "extra"  
11 or overpayments, which we have previously identified as a  
12 tool that we might be able to use to resolve issues.

13           So we could, in fact, go on record and say, you  
14 know, by the way, we have this tool and we're not exactly  
15 sure right now how we want to employ that, but we do have an  
16 intention over time to try to understand better how we can  
17 employ that tool and we're pretty sure we want to do that.

18           And then the third part of it would be to engage  
19 the staff, at Mark's direction and the timing of that, would  
20 be to engage the staff in trying to understand better how we  
21 could use that tool to, in fact, work with other entities  
22 who have other ideas about this, and perhaps in some areas,

1 more expertise. I'm thinking about HRSA, AAMC, COGME, and  
2 others to say -- to answer some of the questions that Mike  
3 brought up. If we did this, if we doubled debt forgiveness  
4 in a certain way, what do you think would happen as a  
5 consequence of that, and is that the right direction to go  
6 in? How would we exactly target this money towards  
7 supporting 21st century training environments that would  
8 produce physicians who better meet society's needs?

9 I think we all have the sense that there's  
10 something there, but we probably would need to get a little  
11 bit better at what exactly that would entail. You know, how  
12 could we use some of that money to support the development  
13 of ancillary providers in ways that are maybe being used --  
14 will be used differently than they've been used in the past.

15 So it would be essentially three parts, saying we  
16 recognize there's a gap between what's being produced and  
17 what's needed and here's some information about what that  
18 is. We've identified a tool that we intend to use to fix  
19 this. And we are open and, in fact, are going to be seeking  
20 out to work with other entities to try to figure out -- to  
21 get to specific recommendations about how we might employ  
22 that tool.

1           And the only other thing I'd say in the end -- and  
2 by the way, we're simultaneously as a Commission going to be  
3 doing other things, for example, looking at, as we will  
4 later, the issue of how physicians are paid and whether the  
5 payment formulas that we have now are the right ones, which  
6 may also have impacts on this question. So it's not that  
7 this is the only activity, but it's the activity that we've  
8 identified specifically to address this problem.

9           MR. HACKBARTH: Okay. Thank you, Jay. Thanks,  
10 Craig and Cristina. I think we're making progress.

11           MR. HACKBARTH: Our last session before lunch is  
12 on some case studies in metrics for high-performing systems,  
13 and David is going to offer a workplan, I guess.

14           MR. GLASS: Today, I'll describe a work plan we're  
15 proposing to look at what high-performance systems are doing  
16 to improve care coordination and efficiency and how Medicare  
17 might recognize which systems are high-performance.

18           The literature often cites certain integrated  
19 delivery systems, hospitals and group practices as high-  
20 performing. When you visit some of these systems, you walk  
21 away thinking that something real is going on. We spoke  
22 with nurses at one system, for example, who had worked

1 elsewhere and now don't plan to leave the current one.  
2 Before, they felt like number, interchangeable bodies, and,  
3 here, they felt like a team member who was valued and had  
4 control. They're encouraged to raise questions and to  
5 propose solutions.

6           At Group Health of Puget Sound, we found a  
7 successful medical home model that not only decreased use of  
8 emergency departments and the rate of ambulatory care-  
9 sensitive admission but also increased patient and staff  
10 satisfaction, with less burnout among the primary care  
11 physicians -- a notable step in an era when they may be in  
12 short supply.

13           At the same time, fee for service payment systems  
14 reward volume and do not differentiate on quality and  
15 therefore do not encourage high performance. For example,  
16 you may remember the case of Virginia Mason Medical Center,  
17 where the process for lower back pain was reengineered.  
18 They reduced use of MRIs and accelerated the use of physical  
19 therapy. Paul Ginsburg, who will be here tomorrow,  
20 documented the result, which was an increase in value for  
21 the employers who saw fewer days of work lost and lower  
22 costs for the decrease in revenue for Virginia Mason.



1           Commissioners have often expressed concern that  
2 doing the right thing is not rewarded in Medicare. In the  
3 long run, we'd like to encourage high-performance systems by  
4 changing the incentives in Medicare payments systems to  
5 better reward quality in care coordination.

6           In our workplan today, we hope to take a first  
7 step and investigate what high-performance systems are doing  
8 and how Medicare could recognize it. Then, later, we could  
9 consider the policy implication.

10           To identify high-performance systems that may be  
11 of interest, we're proposing to draw upon our site visits to  
12 the systems show on the slide and others we've undertaken.  
13 We'll look at case studies in the literature, including  
14 integrated systems and group practices of varying sizes.  
15 Also, we'll take your suggestions for candidate high-  
16 performance systems.

17           We talk about some of the sources for case studies  
18 in more detail in the mailing material. We hope to  
19 capitalize on the information in them, so we don't have to  
20 duplicate those efforts.

21           After identifying some systems, we then ask a few  
22 key questions. First, what are the systems doing to improve

1 performance? Care coordination holds promise for increasing  
2 longitudinal efficiency by decreasing unnecessary  
3 readmissions. At the University of Pennsylvania, we found  
4 that a pharmacist is now being called in to consult with the  
5 patient prior to discharge, to help eliminate potential drug  
6 interactions and to make sure the patient knows what drugs  
7 to take and when, when they get home.

8           Reengineering the process of care is an important  
9 step for many systems. For example, we have noted that a  
10 number of hospitals are standardizing their workflow with  
11 standard order sets and protocols. This is necessary to  
12 define a process sufficiently, so that if changes are later  
13 made to the process you can tell if there's been an  
14 improvement.

15           Another key question is: How are the systems  
16 measuring performance, what metrics are they using? Some  
17 measures are about internal efficiency. For example, at  
18 Virginia Mason, nurses work together to improve assignment  
19 of patients, so that nurses care for patients who are  
20 physically proximate. The nurses walk less and can respond  
21 faster. The hospital team actually measured how far nurses  
22 walk per day before and after the process was improved.

1 Medicare may not want to measure how many steps  
2 nurses take, but it may want to know the process has been  
3 improved and perhaps communicate that to other hospitals.  
4 Measures of more obvious interest to Medicare would be  
5 patient outcome, such as mortality and readmissions, or  
6 perhaps access to care. One measure may be how long do  
7 people have to wait for appointments.

8 Now MedPAC has measures that we've used to  
9 characterize efficient hospitals. We use the three shown  
10 here in our Analysis of Efficient Hospitals in the March  
11 report. We plan to see if the hospitals we identified are  
12 the same as those in the high-performing examples. We hope  
13 to learn from the comparison, what measures do and do not  
14 identify the same set and how we might improve our measures.

15 We would also investigate in systems with multiple  
16 hospitals whether or not all the hospitals were identified  
17 as efficient. This might tell us something about whether  
18 characteristics were strongly system-dependent or if they  
19 were more idiosyncratic to the individual hospital. This  
20 might give us a better idea of what works and what doesn't  
21 to improve performance and efficiency.

22 In summary, our study approach is to choose high-

1 performance systems identified in the literature or by you  
2 or by us. Then, identify what those systems are doing to  
3 improve performance such as process reengineering, care  
4 coordination and how they're measuring success. Next, we  
5 would compare those results to systems we would identify as  
6 efficient using our measures, and, from this comparison, we  
7 would hope to identify what kinds of innovations are  
8 consistently associated with effective and efficient  
9 provision of care and try to learn how Medicare might be  
10 able to recognize high performance.

11 We would then be in a position to better  
12 understand the implications for policy development. For  
13 example: How could promising innovation be disseminated to  
14 other providers? Should conditions of participation be  
15 rethought? How should ACOs be designed, and, eventually,  
16 how should payment policy be altered?

17 So, if this works out, we would aim for a chapter  
18 in the June report.

19 Now one further refinement we may want to consider  
20 is what perspective we take in this work. On the one hand,  
21 our natural focus would be on the Medicare perspective. Is  
22 the system's high performance for Medicare patients? We

1 might use Medicare claims to determine resource use and some  
2 quality metrics, and we could even use surveys of Medicare  
3 beneficiaries for other quality metrics.

4           On the other hand, we might want to consider the  
5 all-payer perspective as well. For example, a system might  
6 be efficient for Medicare, but Medicaid patients don't have  
7 access to it. Should this system's efficiency be thought of  
8 differently?

9           Also, other payers also have to accept high prices  
10 if a provider has market power in an area. We have found  
11 that hospitals not under financial pressure, because they  
12 can charge high prices, have higher costs than hospitals  
13 that are under greater financial pressure.

14           Because Medicare sets prices, the high provider  
15 costs would not be evident from Medicare's perspective.  
16 However, the high costs are of concern to Medicare.  
17 Medicare may not have to pay more immediately, but the  
18 perception that Medicare rates are not adequate can grow if  
19 providers' costs are not kept under control.

20           This is not an abstract concept. In a recent  
21 forum, an employer asked why. If the local system was so  
22 great and efficient, why was it he had to pay higher

1 premiums in that area than in other areas where he had  
2 stores?

3 High prices can coexist with seemingly efficient  
4 practices. So you may want us to take that into account as  
5 we consider efficiency.

6 So, for discussion, with these points in mind,  
7 we'd like you to talk about the following:

8 Would the study, as we described it, be valuable  
9 to you?

10 What should we change in the study approach?

11 Are there specific systems you'd like us to  
12 consider? The large integrated systems such as Kaiser,  
13 Geisinger, Intermountain are often mentioned, and also  
14 several of you have mentioned the Veterans Health  
15 Administration. The VHA may take a little more digging to  
16 get data for our purposes, but it could be considered if you  
17 think it worthwhile.

18 We could also look at smaller practices or  
19 individual hospitals. We're open to suggestions.

20 Finally, would the results be useful, going  
21 forward? Perhaps, there's a means to disseminate best  
22 practices to other Medicare providers or for setting future

1 policies, for example, around bundling or accountable care  
2 organizations.

3 We look forward to your discussion.

4 MR. HACKBARTH: Thanks, David.

5 Round one, clarifying questions.

6 DR. MILSTEIN: David, can you clarify in slide 3,  
7 are these the site visits we've already conducted or is this  
8 the proposed list?

9 MR. GLASS: These are some we've already made. We  
10 are open to doing some more. There's quite a few others  
11 we've also made, not specifically for this task but for  
12 others.

13 DR. STUART: I think it's self-evident that we  
14 need to understand what's out there and be able to identify  
15 high-performing systems. The chapter, as it's developing,  
16 seems a bit ad hoc, however, in terms of what your selection  
17 criteria were.

18 So my question is has there been a literature  
19 review here?

20 Glenn is On the Commonwealth Fund high-performing  
21 health system. What kind of communication is going on in  
22 terms of how these places are selected and then how that

1 information is going to be put together to develop the  
2 chapter?

3 MR. GLASS: We were thinking of taking their list  
4 as our starting point in some sense, the Commonwealth Fund.  
5 Now their list, as I understand it, originally, they did a  
6 kind of sum-data analysis, and then they had kind of an  
7 expert panel Delphi approach to identify which systems they  
8 thought were investigating. I think they initially came up  
9 with 15 and, since, have done quite a few more too.

10 So we're thinking of starting with that list, and  
11 then also, by using our measures of efficiency and that sort  
12 of thing, we were going to come up with another list and see  
13 where they intersect and where they didn't and perhaps look  
14 into both of those.

15 DR. CASTELLANOS: Good points. Two questions,  
16 these are real-world questions: One is what percentage of  
17 health care delivery systems or practices are integrated in  
18 the United States, and have you looked at any of the other  
19 systems that are not integrated?

20 DR. STENSLAND: It kind of depends on what you  
21 mean by integrated. But, if you go the strict kind of  
22 definition where there's common asset ownership of the



1 hospital and the physician practice, you're probably on the  
2 order of 30 percent or something in there. That's looking  
3 at the hospital as kind of the entity of what share the  
4 hospitals are formally integrated with at least some of  
5 their physicians.

6 And, if you want to know what share of the  
7 physicians are formally in one of these entities, it's going  
8 to be less than that.

9 DR. CASTELLANOS: Did you look at any of the non-  
10 integrated systems as high performance?

11 DR. STENSLAND: In some of these times, when we  
12 went to look at hospitals, when we started out looking at  
13 what we thought were efficient hospitals and looked at their  
14 system and how did they relate to the physicians in the  
15 greater system, there were some of them that weren't  
16 formally integrated and still performed well on our metrics.

17 I think as we go through and trace them over time,  
18 like at one time they looked good and some of them have kind  
19 of fallen off on their performance metrics.

20 I think one of the things we're going to have to  
21 look at is how do they, if they're not integrated, how do  
22 they get physician buy-in to coordinate care. That's

1 something that I think Arnie has talked about a lot is  
2 standardizing work, and on some of these site visits how do  
3 you get the doctors to come together and agree to  
4 standardize work, if they're not on salary, if they don't  
5 have a formal relationship with the hospital.

6           So I guess that's a long answer to a technical  
7 question, but there is definitely some work that we'll do,  
8 trying to look at both the integrated systems and  
9 unintegrated systems and look how those two types of  
10 organizations address some of these key issues, like  
11 standardizing work.

12           DR. CASTELLANOS: Thank you. That's exactly where  
13 I was going.

14           DR. BERENSON: Following up on Bruce's question, I  
15 know that Steve Shortell and Larry Casalino and colleagues  
16 have published over the years a series of papers where they  
17 have identified work process activities that they think are  
18 associated with high performance. Have you looked at that  
19 and does that lead you anywhere in terms of what you should  
20 be sort of looking for or to even specific places?

21           I believe they have a network that they go back to  
22 periodically, of practices of various kinds.

1 DR. STENSLAND: Yes, we've talked to Steve  
2 Shortell and Larry Casalino in the past about some of those  
3 issues, but we should probably revisit some of those sites  
4 that they brought up, and especially some of the sites that  
5 aren't formally integrated that I think Larry Casalino has  
6 highlighted.

7 DR. BERENSON: Do you have a sense that they've  
8 captured a number of sort of the work process activities  
9 that we should be looking at or are they too process-  
10 oriented and not focused enough? I guess you're focusing  
11 more on outcomes.

12 Do you have any sense of that or you haven't  
13 really looked at that point of view?

14 DR. STENSLAND: Just recalling what they presented  
15 to us and what we've seen from their work, I don't remember  
16 that kind of stuff in there, but I don't want to say that  
17 it's not there. They've done a lot of work that we probably  
18 haven't seen.

19 DR. CROSSON: Maybe I can speak to that. It's  
20 called the NSPO database, National Survey of Provider  
21 Organizations. They do have a broad set of information.  
22 It's self-reported information, for the most part, and they

1 update it every five years. I can't where in that five-year  
2 cycle that they are.

3 MR. GLASS: We can certainly look into it.

4 MR. HACKBARTH: Other clarifying questions?

5 DR. MARK MILLER: Can I just say one thing quickly  
6 then, and again it was just triggered by your comment. I  
7 think, explicitly, one thing that we're trying to say in  
8 looking at this is it's not just looking at care  
9 coordination activities, that we would explicitly try and  
10 look at what is typically referred to as the reengineering  
11 type of stuff because we haven't put tons of effort into  
12 that. That's an explicit thing. If people want us to do or  
13 not to do, you should feel free to comment on it.

14 MR. HACKBARTH: What actual data are available to  
15 assess overall efficiency other than the Medicare database?

16 So, if we were just taking a strict data-driven  
17 approach, I would think what you would do is look at the  
18 Medicare data and look not on a per admission basis but on a  
19 population basis, and that's how you would identify  
20 efficient providers. Not that that's the truth, but it's  
21 the only data, isn't it?

22 DR. MILSTEIN: On this point, Medstat has a

1 national commercial payer database that is not robust in  
2 every single community, but in many communities, and would  
3 allow these important crosswalks between is it both  
4 efficient for Medicare and efficient for commercial payers.  
5 The National Business Group on Health is pursuing a merger  
6 actually, through Dartmouth, of these two perspectives on  
7 cost efficiency.

8 MR. BERTKO: Yes, and I was going to add Medstat,  
9 and -- I think, Arnie, you would agree -- larger employers,  
10 you can use premiums at a local rating level for most  
11 metropolitan areas because they tend to be fairly specific  
12 down to even zip code level, and those might be available  
13 over time as well.

14 DR. BERENSON: If I could jump in, anticipating  
15 tomorrow's discussion and what David talked about a little  
16 bit, the need to distinguish the cost to the organization  
17 and the cost to the contracting, I mean to the purchaser. I  
18 mean it could well be that that difference is profit.

19 MR. BERTKO: [off microphone] Yes, but not  
20 entirely.

21 DR. BERENSON: I understand. But I mean it would  
22 be nice. I mean one of the things we may learn tomorrow is

1 that there may be efficient organizations but that  
2 purchasers don't benefit from that efficiency, although the  
3 previous work you've suggested on the hospital side is that  
4 they're less efficient if they have market power to get high  
5 prices. But I think it's important to distinguish cost to  
6 the organization and cost to the purchaser.

7 MR. BERTKO: Yes. Arnie's suggestion on Medstat,  
8 though, would generally have the cost of care claims and not  
9 the profit or admin piece.

10 DR. CHERNEW: But it doesn't have great outcome  
11 measures, some, but not.

12 MR. HACKBARTH: Okay, round two comments, let's  
13 start on this side.

14 MS. BEHROOZI: I guess I'm really interested to  
15 see the list of all these characteristics, but I would want  
16 to make sure that it's as broadly applicable or applicable  
17 to as many different types of providers as possible, so that  
18 there wouldn't be reasons for people to say, well, yes, they  
19 can do that because they've got whatever homogeneous  
20 affluent population that all lives within six blocks of the  
21 best providers or whatever.

22 So, can we make sure that we have a range of

1 socioeconomic status represented and diversity ethnically  
2 and whatever, and in various different ways if we could just  
3 make sure that the institutions that we're picking reflect a  
4 range of types of patient populations that they're dealing  
5 with?

6           Also, I guess this kind of goes back to Ron's  
7 clarifying question. The institutions that you identified  
8 when you were showing that high-cost hospitals tend to  
9 receive high payments from non-Medicare payers, you did  
10 identify institutions across the board, as I recall, small  
11 and large, teaching and non-teaching, high Medicaid share.  
12 I think you looked at that.

13           So are there institutions to look at there,  
14 regardless of their level of integration, but rather simply  
15 how are they doing it? How are they keeping their costs low  
16 for all payers?

17           And, as I recall, you also had a quality measure  
18 in there. How robust was it, I don't know, but that seems  
19 maybe like a good pool to start with or to go to.

20           MR. KUHN: Thank you. This is exciting stuff and  
21 thank you for doing this. I think it not only is a chance  
22 for us to impact future policy discussions but also,

1 hopefully, and maybe that's wishful thinking on my part,  
2 this can help accelerate some of the new designs out there.  
3 When people have this kind of information, maybe you can  
4 push the demos, the pilots even faster through the pipeline  
5 is what I would hope to do.

6           Just on the issue of maybe more sites to look at,  
7 I don't have any specific names for you now, but I'll get  
8 back to you on this. But I'd really like us, if we could  
9 also see if we could find a few rural sites to look at as  
10 well.

11           I'm really interested and want to be a little  
12 concerned about the scalability of some of the things that  
13 we look at. So I want to make sure there's portability  
14 across all kinds of settings across the country, both rural  
15 and urban. So I'd like to work with you on some  
16 identification on that.

17           Then the area I would suggest is a little bit  
18 outside of the hospitals themselves, and that is there are a  
19 lot of consulting firms out there, working with institutions  
20 to help them on workflow redesign. While I think we have to  
21 be careful with some of that, because is it truly workflow  
22 redesign that takes cost out of the system or is it just



1 shifting costs to another department within the hospital.

2 We have to be very careful of that.

3           We have a point in time now where hospitals have  
4 implemented things, but I think some of these consultants  
5 are thinking three and five years down the road and putting  
6 out new metrics and new ways for doing the feature. So, to  
7 the extent that we could capture that kind of thinking in  
8 what we're doing, to kind of get a line of sight of what's  
9 out there more on the horizon, I think would be helpful as  
10 well.

11           MR. BUTLER: So the questions about data remind me  
12 of later we'll be talking about the difficulties in  
13 measuring performance. I have great expectations about  
14 pursuing this but realistic in linking it to very specific  
15 outcome measures.

16           Having said that, my one comment is to think about  
17 this through another lens as well, and that is not looking  
18 at high-performing institutions but activities we think make  
19 a difference across institutions and studying whether they  
20 really do or not. You can do this while you're looking at  
21 high performance.

22           For example, IT, we keep bringing up. If you were

1 able to pick out what you felt now were very high-end users,  
2 could you begin to look across those institutions and say  
3 how is the outcome different? Is it making a measurable  
4 impact and in what way?

5 Or, you could take medical homes and say, for  
6 those institutions that are embracing it, is it making a  
7 difference?

8 So we start getting data and, in fact, some of the  
9 things we think are important and are considering, not just  
10 going to a high-performance and fishing around and say, what  
11 makes a difference?

12 A third one might be the characteristic of the  
13 medical staff, which we haven't really addressed head-on,  
14 and that's kind of maybe a narrow way to state it. But how  
15 physicians are organized and how they're working with the  
16 hospital, does it make a difference?

17 We hear one day if you're only salaried. Well, we  
18 know that that's not nearly as important as some other  
19 things. So the characteristic on the continuum of how the  
20 physicians are organized or not, does it really make a  
21 difference?

22 I could go to vertical integration. If you, in

1 fact, have aggressively gone after vertical integration  
2 strategy, where you own and have most of the pieces, does it  
3 make a difference?

4           So whether we go after high-performing  
5 institutions as the fundamental unit of analysis, or some of  
6 these other areas, you're probably going to do both. I  
7 would just keep those in mind, so we're not just kind of  
8 searching for what works but have some framework about the  
9 things that we really want information on.

10

11           MS. HANSEN: Mine are brief because I just want to  
12 reiterate the idea of other systems that you'll be looking  
13 at, and it sounds like there will be some other suggestions  
14 of ways to look at it because the ability to diffuse will  
15 always be, of course, with the high-performing large  
16 systems, but there are other best practices with the  
17 outputs. I think, Arnie, you wrote a bit in Health Affairs  
18 on some of these smaller practices, but whether or not, how  
19 we still do the diffusion of them in the meantime.

20           On the second aspect -- it actually relates to  
21 Peter's last point -- I tracked to one particular set of  
22 variables that are more qualitative, and that is relative

1 not only to the physician leadership. But it's kind of  
2 unusual, the arrangement and the characteristics and  
3 conditions that make it possible for, say, the hospital  
4 administration and the physicians, and possibly I think in  
5 some systems I notice that even the chief nurses that have  
6 figured out a way to work together.

7           So it's again qualitative, more attributes, but  
8 what are the preconditions, and it has to do with one of the  
9 points in the last presentation. If we're going to have  
10 leadership in driving change for the future, it comes in a  
11 partnership, and Nancy would probably be the one to speak  
12 about that with physician management, leadership. But  
13 there's something here that I don't know oftentimes gets  
14 identified as how crucial leadership is in order to do that.  
15 As I say, it's more of a qualitative component, but I think  
16 it's one of those intangibles right now.

17           MR. BERTKO: A couple more additions to your  
18 thinking about this, like Herb, I think looking at a few  
19 rural places, but I also suggest some micropolitan areas.  
20 That is those smaller cities with a single hospital in town  
21 and those independent medical practices.

22           I forgot whether, David or Jeff, you mentioned

1 this, but looking at it on a multi-year horizon to see which  
2 ones have been successful for, say, all of three years. We  
3 might also learn something from those that looked three  
4 years ago and then failed, fell off the wagon, somewhere  
5 down the line.

6           Then, lastly, with everything that's going on in  
7 this and reform, looking at keeping some eye on the all-  
8 payer part, that is probably focusing on the Medicare end of  
9 it only because the data is easier to get to, and then on  
10 selected cases, going to Medstat or some other source of  
11 even hospital profit reports to see what's the change there.  
12 However you can, but to look at broader answers rather than  
13 just Medicare only.

14           DR. CROSSON: Just in terms of how you end up  
15 categorizing the systems, I think you know this, but  
16 obviously how the system is paid -- whether it's primarily  
17 or completely prepaid, or primarily or completely paid by  
18 fee for service -- is important to know.

19           In addition to that, then I think when we're  
20 looking at efficiency we're going to be potentially looking  
21 at both efficiency within a unit of service and also  
22 efficiency on the basis of population costs. I think those,

1 for obvious reasons, may also distinguish.

2 I can almost see a two-by-two table of sort of  
3 where does the organization that's prepaid go after unit  
4 costs, where does it go after population-based costs.

5 Then for the organization that's fee for service,  
6 does it go after unit-based costs in the same way? Maybe.  
7 And, does it have any plans necessarily or practices that  
8 would influence population-based efficiency?

9 MR. GLASS: An interesting subset is those that  
10 own, that have their own MA plan or health plan associated  
11 with them, and maybe we can gather a little more data from  
12 that perspective.

13 DR. CROSSON: Right. So those would be some of  
14 the ones who all are paid in part, prospectively. One of  
15 the questions there is how much prospective payment do you  
16 have to have before you start thinking seriously about  
17 population-based costs?

18 DR. BERENSON: The only additional thing I'd want  
19 to add is sort of this issue that comes up a lot is around  
20 culture and leadership in high-performing systems, and it's  
21 hard to tease all of that out. So I guess what I'd be  
22 interested in is going to some places that have not been

1 around for 50 years and to sort of get some sense of how do  
2 you start one these -- so, maybe a couple of organizations  
3 that have developed, what they've developed over a five-year  
4 period or something, and isn't Geisinger or Kaiser or Group  
5 Health of Puget Sound.

6 MR. HACKBARTH: [off microphone] [inaudible] make  
7 sure where we are relative to the overall time. Am I  
8 missing anybody else?

9 DR. KANE: Well, I feel kind of like I'm sitting  
10 on a doctoral research committee right now, kind of getting  
11 ready to caution the student about biting off way too much  
12 to chew here. I think just listening to all the variables,  
13 all the outcome measures, all the possible selection  
14 criteria, I'm going, whoa, good luck. I hope you have a  
15 real big budget and a long time frame, but I think this is  
16 awfully ambitious and our expectations are perhaps a little  
17 too high.

18 I have actually got a grant to look at -- I don't  
19 mind the competition. I welcome it. But I've been working  
20 on a project around high-performance safety net hospitals  
21 for the Commonwealth Fund. One of the things, for instance,  
22 we've found in looking at all the different ways you might

1 identify them is that they don't correlate that well. So  
2 somebody who has got high financial performance doesn't have  
3 high quality performance.

4           So it gets to be really not that easy to pull out,  
5 even what you mean. It took us a year, and we're still  
6 fixing this. It took us a year to just figure out what we  
7 think is a high-performing system and on what metric are we  
8 going to weight that definition.

9           So it's not that straightforward even to come with  
10 what do you mean by high-performing, not to mention all  
11 these different confounders you want people to account for.  
12 I mean I would throw in socioeconomic factors as well as a  
13 capitation revenue or percent, whether they're integrated or  
14 not, and owned or trying to deal with herding cats. So  
15 there's a lot of variables in there that I think make it  
16 pretty challenging.

17           A way to deal with that might be to look more  
18 specifically at some of the things that are related to the  
19 payment reforms that are probably going to happen. The big  
20 one I see that would be a really fascinating one to sort of  
21 start to tease out what are the differences that really  
22 matter to us is around the readmission piece because it does



1 say -- you know.

2           Look at the high and the low end of readmission  
3 and say, well, who is doing a good job of this, adjusting  
4 for case mix and even socioeconomic characteristics, I  
5 think, because I think that plays a role. Who is doing a  
6 really good job and maybe even in a place you wouldn't  
7 expect it, and then who's doing not such a great job in a  
8 place you would expect it, because a lot of that has to do  
9 with how well can they manage across the different delivery  
10 silos.

11           These are the things that Medicare is going to be  
12 really pushing, and we are going to be needing to give  
13 organizations guidance or advice or models of how do you  
14 manage that readmission rate.

15           I've had doctors come up to me in my classes and  
16 say: That's ridiculous, that I should care about a patient  
17 post-discharge. I'm done.

18           So, just that little thing, that little how you  
19 manage readmission rates and who has got low ones and high  
20 ones and adjust for the confoundings and then say, now who's  
21 really managing this in an effective way and why -- I think  
22 that would be really valuable 1-year exercise as opposed to

1 this 60-tome research project that we've all just produced  
2 for you.

3           Anyway, I love the idea. Having been doing it for  
4 a while, I can just say you really want to start a little  
5 bit more focused than trying to take on everything in as  
6 broad a definition as a high-performing health system, which  
7 could mean anything.

8           DR. MILSTEIN: I almost never disagree with Nancy,  
9 but on this occasion. I think we benefit, and always do,  
10 from a diversity of pristineness of the evidence base on  
11 which we and policymakers make decisions. So I endorse  
12 Nancy's perspective of a scientifically pristine  
13 identification of high performers, but I think there's a lot  
14 of usefulness and wisdom in making the best of what we have.

15           If we were happier with our status quo, then I  
16 would say let's wait for pristine evidence. But I think we  
17 have a lot of evidence our status quo is not very good and  
18 is not moving in the right direction. So, for that reason,  
19 I would advocate that I wouldn't pull back on the level of  
20 ambition that was outlined at the beginning.

21           I think, fortunately, we have Nancy and other  
22 methodologists around the table to help us understand just

1 how imperfect our evidence is. I think we ought to reach  
2 for the best available evidence on which delivery systems  
3 seem to be achieving a lot better clinical outcomes and  
4 burning a lot less, per person, per year, health insurance  
5 fuel across all payers.

6 I think it's going to be very difficult to do, but  
7 I think it's doable. With the databases we can access, I  
8 think we can come up with policy-useful conclusions.

9 DR. CHERNEW: So I think this is a perfect time in  
10 some ways, given the Nancy/Arnie discussion. You might  
11 figure out where I'm going to come down. The first thing  
12 I'll say is I have to tell you, honestly, I'm probably on  
13 the skeptical side of the ability to believe that you'll  
14 come back and tell me something that later I would want to  
15 put into some recommendation.

16 I'll make a few quick comments. The first one is  
17 you need to look at low-performing systems because I have  
18 not yet found a system that doesn't have some great things  
19 that they're doing, that I could go in and figure out, oh,  
20 they have a new system or this person is doing that. Right?  
21 So I think you really have to do a survey of low-performing  
22 ones because it's important to have a comparison group.

1           I think you have to supplement everything you do  
2 with data. Then after you find that they don't correspond,  
3 are you going to say that there's something wrong with the  
4 interview process or there's something wrong with the data  
5 you had or something wrong with the measures? That's going  
6 to be very hard to tell.

7           The one recommendation that might be more  
8 constructive that I would make is I think for MedPAC a  
9 statement that more funding for AHRQ and more money to go to  
10 these types of endeavors to be done in sort of broad,  
11 rigorous ways, I think is a useful activity. But I'm not  
12 yet convinced that going to places identified as high-  
13 performing and letting them tell you all the wonderful  
14 things they are doing tells us anything about how  
15 generalizable that would be or how we should change policy.

16           DR. CASTELLANOS: Jeff, I appreciate your  
17 comments, and you and I have talked about this in the past.  
18 I guess carrying on what Bob said is what can we learn from  
19 this, and what I'm interested in is how can we diffuse this  
20 information out. Not just learn about it, but how can we  
21 diffuse it?

22           I can tell you most communities are not

1 integrated, most hospitals are not integrated, and most  
2 physician practices, offices are certainly not integrated.

3 DR. BORMAN: Recognizing all the challenges, I  
4 still think that at least a run at this would be helpful  
5 just because I think we previously have seen best attempts  
6 to categorize efficiency, and you set some high and low  
7 criteria for us before, about hospitals. So we've made a  
8 good run on at least that database. Let's make a run on the  
9 qualitative side.

10 Let's not turn it into the science project of the  
11 century, but I think it would be informative to make a run  
12 at the qualitative side. So I do think that there is some  
13 value to this.

14 I think that one of the questions that you posed,  
15 that perhaps some selection would help you answer is: Is it  
16 a hospital factor or a systemwide factor? I have a couple  
17 of examples I'll be happy to share with you that I think  
18 might help you get to that.

19 I agree about the rural piece. I have at least  
20 one I can think of that I'll share with you, about getting  
21 to that.

22 I think this could be an opportunity, to the

1 extent that places you identify sponsor graduate medical  
2 education, let's see if we can tease out while we're there,  
3 a twofer. Do they have anything that they can comment, give  
4 us feedback about, how the things that they've done to  
5 become high performance or whatever have in fact impacted  
6 their -- and I'll give you an anecdotal example that I'm  
7 aware of, just to think about.

8           Then I think another question would be could you  
9 look at, would you want to look at for your list -- you know  
10 we've had the list of people who participated in some of the  
11 PGP projects. Is that a list to start from?

12           Also, your objective analysis previously of  
13 hospitals, you had some real outliers at the high and low  
14 ends. I would agree with Mike, a little low end  
15 investigation could be helpful. Getting a couple of these  
16 lists together and pick the ones that keep popping up might  
17 be the biggest bang for the buck.

18           The other thing would be whether any of these,  
19 whether the sites, if there's any site within the areas that  
20 are doing the physician research utilization reports could  
21 qualify for your work because that might help give you an  
22 example, particularly for the less integrated groups, of

1 that physician medical staff or some of those practitioners,  
2 how that relates. That could be informative. Perhaps one  
3 tiny way to start coming at the less integrated issue would  
4 be maybe some thoughts about where to go with it.

5 DR. DEAN: I think probably my thoughts have  
6 already been stated. I just wanted to follow up, especially  
7 on what Jennie and Bob said. I think as we look at this,  
8 first of all -- and I think it's an important direction to  
9 go -- we need to try and tease out the success of these  
10 facilities or organizations, how much of it is a result of  
11 either structural or policy issues as opposed to unique  
12 local issues.

13 My suspicion is an awful lot of it is due to local  
14 issues and especially local leadership, but I think we need  
15 to try to distinguish if there are things that policy  
16 changes might affect, unless we can figure out a policy  
17 approach that will generate leaders.

18 MR. HACKBARTH: I'm not a researcher, so all my  
19 comments should be taken with a grain of salt. But, as an  
20 utter layman on this sort of thing, it does seem to me that  
21 maybe the greatest opportunity to learn is from the  
22 organizations, as Bob says, that are recently changing. The

1 ones that have 10 and 20 and 50-year histories, they're  
2 important, but in a lot of ways they're also unique.

3           So it seems to me from our perspective, a policy  
4 perspective, the really interesting cases are the ones who  
5 have initiated change recently in a move from low  
6 performance or mediocre performance into a higher  
7 performance category and what allowed them to do that and,  
8 in particular, since this is the Medicare Payment Advisory  
9 Commission, to what extent is how they're paid an important  
10 influence in their ability to accomplish rapid improvement.

11           I can imagine there are all sorts of different  
12 cells in this research, but, boy, that's the one that seems  
13 like it would be really interesting to me.

14           DR. CHERNEW: You still need to know why the ones  
15 that had the same payment system didn't make that evolution.  
16 It's the differential, because you'll always be able to go  
17 in and craft some great ex post story, and then you'll  
18 think, oh, if everyone could just have done this.

19           Often, you end up, it's just [inaudible]. That's  
20 why they're so good. But she'll tell you a whole bunch of  
21 things that aren't that. So you need some comparison.

22           MR. HACKBARTH: We are at the limit of our time on



1 this. I hope we helped a little bit.

2 MR. HACKBARTH: Now we will have our public  
3 comment period before we break for lunch, and Karen well  
4 knows our ground rules, but I will repeat them anyhow. No  
5 more than two minutes and please, Karen, begin by  
6 identifying yourself and your organization. When the light  
7 comes back on, two minutes is up.

8 MS. FISHER: Terrific. I'm Karen Fisher at the  
9 AAMC, and if I have more to say, maybe I will use that new  
10 nifty comment site on the MedPAC website.

11 First of all, thank you, as always, talking on an  
12 issue that we view as important at the AAMC. We are very  
13 interested in looking at delivery reform and payment reform,  
14 and it was alluded to, the issue of health care innovation  
15 zones, which has been developed by the AAMC to help test out  
16 some of these ideas, and I think with an emphasis on test  
17 because no one is exactly sure what we mean.

18 I also thought slide 13 was interesting. I wish,  
19 though, that it went beyond Medicare because it was  
20 mentioned -- but I think it is worth emphasizing -- that for  
21 the Medicare direct GME payment, it is only paying  
22 Medicare's share of a total cost value. So hospitals, the

1 teaching hospitals who enter this area, have to find other  
2 resources to fill up the rest of the costs. And I wish that  
3 you had a chart to talk about that.

4           That is also true on the IME side. The Medicare  
5 IME payment is an add-on to Medicare cases. And to the  
6 extent that teaching hospitals have higher costs for other  
7 payers -- Medicaid, uninsured, and private payers -- they  
8 have to find additional resources for those costs. And  
9 while they may be out there, it is a risky proposition. It  
10 is not a guarantee, and it is in part the reason why  
11 teaching hospitals tend to have lower operating and total  
12 margins than other community hospitals.

13           With that being said, we would urge the Commission  
14 to reconsider the consensus or the possible consensus of not  
15 looking at all payer funding because we think that is  
16 important.

17           And, finally, we would urge you to reconsider  
18 looking at the issue of Medicare caps. They have been in  
19 place. It has been an artificial freeze since 1997, without  
20 any thought given since then except to redistributing those  
21 caps, but really to look at the issue of physician shortages  
22 and the roles those caps play in inhibiting the progress in

1 growth in physicians beyond we know that some people have  
2 gone over the cap for a multitude of reasons.

3 Thank you.

4 MR. HACKBARTH: Okay, we will break for lunch and  
5 reconvene at 1:30.

6 [Whereupon, at 12:24 p.m., the meeting was  
7 recessed, to reconvene at 1:30 p.m. this same day.]

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1 data requirements and benchmarking of performance measures.  
2 The report is to include any recommendations for legislative  
3 or administrative changes that the Commission finds  
4 appropriate.

5           The meeting materials we prepared for this session  
6 and our presentation this afternoon are the synthesis of our  
7 study that's included input from you at two previous  
8 Commission meetings, discussions with a diverse group of  
9 stakeholders, and an extensive literature review. Today, we  
10 will present a series of policy options in the form of draft  
11 recommendations for your consideration.

12           However, before we get to the draft  
13 recommendations, we think it is important to step back and  
14 highlight two key considerations that have framed our work  
15 on this study and the development of the draft  
16 recommendations.

17           First, as summarized on this slide, we were  
18 cognizant of at least three different purposes and audiences  
19 served by information about quality of care. Each group  
20 shown here, Medicare beneficiaries, CMS program managers, as  
21 well as agency and Congressional policy makers, and  
22 providers and plans, use this quality information for

1 different ends, and therefore they have divergent needs for  
2 the types of information about quality and the formats in  
3 which they can absorb and use the information.

4           For example, beneficiaries who want to compare the  
5 quality of MA plans that they are thinking about joining  
6 need information about how the plans performed in their  
7 local area, not at a Statewide or national level, and they  
8 may be most interested in the overall outcomes of care and  
9 beneficiaries' experiences of care in the various plans they  
10 have to choose from. CMS and providers will have their own  
11 priorities for quality comparisons. Ideally, the quality  
12 measurement and comparison approaches that Medicare uses  
13 should be flexible enough to accommodate these various  
14 audiences' different information needs.

15           We also have been guided by the Commission's past  
16 recommendations on aspects of comparing quality between MA  
17 and fee-for-service Medicare and within MA. In March 2005,  
18 the Commission recommended that CMS should collect certain  
19 laboratory test values in fee-for-service and thereby obtain  
20 information such as cholesterol and blood glucose levels  
21 that are used for so-called intermediate outcome measures.  
22 In June 2005, the Commission recommended that the Secretary

1 should calculate quality measures in fee-for-service that  
2 could be compared to results from MA.

3           Within MA, the Commission has recommended that  
4 payments to MA plans should vary based on plans' relative  
5 performance on quality measures. In March 2004, the  
6 Commission recommended setting up a pay-for-performance pool  
7 financed by a small portion of plan payments that would be  
8 redistributed to high-performing plans and to plans that  
9 showed improvement over previous years' results.

10           Then in June 2005, while recommending that MA  
11 benchmarks be set at 100 percent of fee-for-service, the  
12 Commission also recommended that funds that would otherwise  
13 have been retained by the Treasury when plan bids were below  
14 these benchmarks should be given back to plans in the form  
15 of quality bonuses.

16           And lastly, while not a formal recommendation, the  
17 Commission in its June 2009 report to the Congress suggested  
18 that higher quality plans should have higher payments than  
19 other plans during the transition to plan payment benchmark  
20 levels that are based on local fee-for-service payment  
21 levels. The Commission also discussed paying MA plans more  
22 than fee-for-service when they had demonstrably higher

1 quality than fee-for-service.

2 Now, we will turn to the draft recommendations.

3 At the start of our journey, we thought it would be helpful  
4 to give you a roadmap to the territory we will cover. The  
5 table on this slide is organized around four cross-cutting  
6 issues and three types of quality measures that are  
7 addressed by the draft recommendations.

8 First up is the issue of the appropriate  
9 geographic unit for reporting and benchmarking quality  
10 measures. Here, the draft recommendation is that the  
11 geographic unit should be the same in both MA and fee-for-  
12 service. In most cases, this would mean that quality  
13 comparisons between MA and fee-for-service and among MA  
14 plans would be done at the local health care market level.

15 Going to the next row on the table, we will  
16 discuss whether the data collection and reporting that  
17 underlies certain quality measures should be made consistent  
18 across all types of MA plans, that is, HMOs, PPOs, and  
19 private fee-for-service plans, which currently is not the  
20 case.

21 Next, we will consider how the Health Care  
22 Effectiveness Data and Information Set, or HEDIS measures,



1 could be used to compare quality between MA and fee-for-  
2 service Medicare. Several existing HEDIS measures that rely  
3 on administrative data only may feasibly be used to compare  
4 some aspects of quality in both sectors of the program.  
5 Because some other HEDIS measures require laboratory  
6 information, we will look at enhancing fee-for-service  
7 claims data to include laboratory test results. We also  
8 discuss how new HEDIS measures would need to be developed to  
9 cover more segments of the Medicare population, such as  
10 beneficiaries over age 75 and under age 65, and  
11 underrepresented clinical conditions, such as mental  
12 illness.

13 Then moving to the fourth row, we will look at two  
14 surveys, the Consumer Assessment of Health Care Providers  
15 and Systems, or CAHPS, and the Health Outcomes Survey, or  
16 HOS, that Medicare currently uses to get the beneficiary  
17 perspective on quality. We will discuss how the sample size  
18 of these surveys could be expanded to allow comparisons  
19 below the State level and how a fee-for-service version of  
20 the HOS would allow comparisons of beneficiaries' health  
21 status changes in both MA and fee-for-service.

22 Next, we will discuss how Medicare could use a

1 starter set of outcome measures to assess and compare the  
2 quality of ambulatory and inpatient care in a local fee-for-  
3 service area or MA plan. These are all outcome measures  
4 that may be calculated using administrative data, such as  
5 fee-for-service claims or health plan encounter data. In  
6 2011, MA plans will begin submitting encounter data to CMS,  
7 and if it is complete and contains the necessary data  
8 elements, these data could be the basis for computing the  
9 outcome measures on a comparable footing between MA and fee-  
10 for-service and among MA plans, including as much risk  
11 adjustment as is possible with administrative data.

12           At the second-to-the-last stop, we will consider  
13 the option of leveraging a timely opportunity that has  
14 presented itself this year in the form of CMS's efforts that  
15 are underway right now to define the criteria for the  
16 meaningful use of electronic health records, or EHRs. The  
17 meaningful use criteria are a central element in forthcoming  
18 Medicare payment incentives for EHR adoption, and defining  
19 them now to support collection of the data needed for more  
20 robust quality measures and improved risk adjustment could  
21 be invaluable to future quality comparisons.

22           And last but not least, we will consider the

1 potential budget implications for CMS of all the draft  
2 recommendations and whether the Congress should dedicate  
3 funding for the implementation of these activities to ensure  
4 that any quality comparisons between MA and fee-for-service  
5 Medicare and among MA plans are executed with sufficient  
6 resources to be as accurate as possible.

7           There also is a chronological aspect to the  
8 Congressional mandate that drives us to lay out the road map  
9 as we have. The MIPPA language calls for reporting on  
10 improved quality measures to occur by 2011. We therefore  
11 will discuss draft recommendations for changes that can be  
12 implemented by 2011, while other ways we might improve  
13 quality measurement are not feasible until after that date.

14           For the near term, by 2011, our draft  
15 recommendations include modifying and adapting the current  
16 MA quality measurement systems to improve quality  
17 comparisons within MA and to start comparing at least some  
18 aspects of quality between MA and fee-for-service, such as  
19 certain process and patient experience measures.

20           Other draft recommendations we will present, such  
21 as developing new quality measures to address gaps in the  
22 current systems and tapping into new data sources, such as

1 lab values, health plan encounter data, and electronic  
2 health records, would be longer-term prospects that are  
3 feasible beyond 2011.

4 Carlos now will start walking you through the  
5 draft recommendations.

6 MR. ZARABOZO: Our first draft recommendation will  
7 deal with the question of the geographic unit for the  
8 reporting of quality measures in MA and fee-for-service. As  
9 we have discussed in past public meetings, many MA plans  
10 report a single set of quality measures for a very wide  
11 geographic area, such as plans in California that cover much  
12 of the State, even though different parts of California have  
13 very different health care markets and the provider  
14 characteristics in each geographic area can be very  
15 different in both fee-for-service and MA.

16 Particularly for the purpose of informing  
17 beneficiaries about the relative performance of MA plans and  
18 the performance of MA plans as compared to fee-for-service,  
19 quality comparisons should pertain to a specific geographic  
20 area in which beneficiaries are making choices among  
21 different options. This will enable beneficiaries to know  
22 which plans are better than others and how fee-for-service

1 compares to available MA plans.

2 For CMS in its role as the entity monitoring the  
3 performance of plans and seeking improvements in plan  
4 quality, it is also important to evaluate the care that each  
5 plan provides in the different geographic areas in which a  
6 Medicare Advantage organization operates.

7 This leads to our first draft recommendation,  
8 which calls for the Secretary to collect and report data at  
9 a smaller geographic level than the current MA contract  
10 level. The geographic areas would be health care market  
11 areas or the reconfigured payment areas the Commission  
12 recommended for MA in the June 2009 report to the Congress.  
13 The same newly reconfigured geographic areas should be used  
14 for calculating and reporting fee-for-service results.

15 The draft recommendation reads, the Secretary  
16 should collect, calculate, and report performance  
17 measurement results in MA at the level of the appropriate  
18 geographic unit and calculate fee-for-service performance  
19 results for purposes of comparing MA and fee-for-service  
20 using the same geographic area definitions.

21 As we go along discussing the changes that are  
22 necessary for comparative reporting, you will see that a

1 number of issues are subsumed within this recommendation.  
2 For example, if today a particular MA plan's quality  
3 information is based on a survey of beneficiaries that gives  
4 you statistically valid results at the Statewide level, when  
5 you go to smaller market areas, you would have to increase  
6 the sample size to yield valid results in the smaller area.

7           As we have mentioned in the past, there is also a  
8 small numbers issue and that going to smaller geographic  
9 areas, you're dealing with fewer enrollees and sometimes too  
10 few to yield valid results. The Secretary would have to  
11 develop alternative ways of evaluating and reporting on  
12 quality in such cases, for example, by using a three-year  
13 rolling average.

14           The implications of this recommendation are that  
15 CMS would require significant additional resources to  
16 collect the necessary information and report it for each of  
17 the smaller geographic areas. The kind of systemwide  
18 reporting contemplated in the draft recommendation is not  
19 currently done in the fee-for-service sector.

20           For beneficiaries, the change would allow better  
21 comparability of quality measures. However, the response  
22 burden for beneficiaries in responding to surveys does

1 increase.

2 Many plans would face additional burdens and costs  
3 because of the increased number of reporting units.

4 As John mentioned, we are proposing to build on  
5 current systems as the basis for improved comparative  
6 reporting in the near term. The MA program has three  
7 systems that provide information about the plans'  
8 performance on quality measures. Two of those systems,  
9 CAHPS and the Health Outcomes Survey, obtain their  
10 information through patient surveys. The CAHPS-MA survey  
11 collects information about enrollees' perceptions of care  
12 rendered by plan providers, their ease of access to care,  
13 and the rating of their care and of their health plan.  
14 CAHPS is also the vehicle used for collecting information  
15 about vaccine rates among MA enrollees and information on  
16 smoking cessation counseling.

17 For the Health Outcomes Survey, enrollees are  
18 surveyed initially to obtain baseline information about  
19 their health status and then resurveyed two years later to  
20 evaluate their changes in physical and mental health. Some  
21 of the HOS questions also pertain to care that beneficiaries  
22 received through their health plans, for example, whether

1 beneficiaries that have suffered a fall receive fall risk  
2 management.

3           Those particular HOS questions on the care that  
4 enrollees received through their plans and the CAHPS  
5 questions on vaccines and smoking cessation advice are  
6 incorporated into the other performance measurement system  
7 for MA, which is the Health Care Effectiveness Data and  
8 Information Set, or HEDIS. HEDIS is primarily a set of  
9 process measures that health plans report, along with some  
10 so-called intermediate outcome measures. Examples include  
11 process measures such as screening rates for breast cancer,  
12 colorectal cancer, and glaucoma, and the intermediate  
13 outcome measures, such as the measures showing the extent to  
14 which diabetics are controlling their blood pressure,  
15 glucose levels, and cholesterol.

16           Now, I would like to talk about how the current MA  
17 systems can be used to compare MA to fee-for-service,  
18 starting with the patient survey instruments. In the case  
19 of CAHPS, there is an equivalent of the MA-CAHPS survey that  
20 is collected in fee-for-service. CMS already uses the CAHPS  
21 fee-for-service survey for comparing MA with fee-for-service  
22 on vaccination rates, for example.



1           Consistent with the first draft recommendation  
2 regarding the appropriate geographic unit, the only change  
3 necessary to CAHPS would be to expand the survey to ensure  
4 that each geographic area has a sufficient sample size to  
5 ensure valid results.

6           In the case of the Health Outcomes Survey, there  
7 is no equivalent survey in fee-for-service. Although such a  
8 survey could be instituted in fee-for-service, results of  
9 two years' surveying and resurveying of beneficiaries would  
10 not be possible by 2011.

11           Because fee-for-service lacks the equivalent of  
12 the Health Outcomes Survey, draft recommendation two directs  
13 the Secretary to collect and report on survey-based patient  
14 experiences and outcomes in fee-for-service in the same  
15 manner as is done in MA.

16           The draft recommendation reads, the Secretary  
17 should, for fee-for-service collect and report the same  
18 survey-based data that are collected in MA through the  
19 Health Outcomes Survey and ensure that meaningful  
20 distinctions among plans and across sectors are discernible  
21 in reporting results of the survey.

22           The second part of this recommendation addresses a

1 concern with regard to the Health Outcomes Survey, which is  
2 that the current reporting practices do not show  
3 distinctions among plans that could be meaningful to  
4 beneficiaries in choosing among plans. The vast majority of  
5 plans are reported as having outcomes that are within the  
6 expected range for their MA enrollees.

7           As for the implications of this draft  
8 recommendation, introducing the equivalent of the HOS in  
9 fee-for-service would require CMS to invest a substantial  
10 level of resources in the effort, but it would improve the  
11 kind of comparative information that beneficiaries would  
12 find useful. However, the response burden for beneficiaries  
13 in responding to surveys does increase. Plans would face  
14 additional costs due to the geographic unit recommendation  
15 that would require an increase in the number of enrollees  
16 surveyed.

17           Turning now to the clinical quality measures  
18 collected through HEDIS, what is possible in 2011 is to have  
19 CMS compute HEDIS administrative measures in fee-for-  
20 service. These are the HEDIS measures that are based solely  
21 on plans' administrative data, such as claims and encounter  
22 data. This includes measures such as the rate of breast

1 cancer screening, glaucoma screening, and monitoring of  
2 medications.

3           As we discussed in your mailing material, when MA  
4 plans report on HEDIS administrative measures, the sources  
5 of information from which they compute their performance  
6 include more sources than existing fee-for-service Medicare.  
7 In fee-for-service Medicare currently, the source for HEDIS  
8 administrative measures would be fee-for-service claims and  
9 pharmacy data. In health plans, lab values and electronic  
10 health records can be the source of information for  
11 computing HEDIS performance results. So even the  
12 administrative data cannot be perfectly matched between fee-  
13 for-service and Medicare Advantage.

14           Some of the HEDIS measures rely on more than just  
15 administrative data. Many measures, including the  
16 intermediate outcome measures, can be based on medical  
17 record information. For some health plans, the information  
18 is contained in electronic health records, but often the  
19 information is obtained by using a sample of medical records  
20 to determine the plan's rate for a given HEDIS measure.  
21 However, only HMOs can use medical records as a basis for  
22 reporting. PPOs cannot, for example. We will return to

1 this issue of a non-level playing field among MA plan types  
2 later in presenting one of the draft recommendations.

3 On the fee-for-service side, with respect to  
4 measures that rely on medical record review, CMS does not  
5 have access to medical records for fee-for-service, though  
6 there have been projects and studies that have evaluated  
7 quality in fee-for-service by reviewing samples of medical  
8 records to determine the performance of fee-for-service  
9 providers on HEDIS-like measures.

10 Given the time frame specified in the mandate and  
11 what is feasible with regard to HEDIS, our draft  
12 recommendation is that the Secretary should calculate HEDIS  
13 administrative-only measures for fee-for-service. This is  
14 possible by 2011. What is also possible by 2011 is to  
15 obtain lab values that would allow the computation of  
16 additional HEDIS measures in fee-for-service if the  
17 Secretary required the submission of lab value information  
18 in fee-for-service.

19 The draft recommendation reads, the Secretary  
20 should calculate fee-for-service results for HEDIS  
21 administrative measures by 2011 and begin collecting lab  
22 values in fee-for-service by 2011 and use the information to

1 calculate intermediate outcome measures for fee-for-service  
2 as soon as practicable.

3 Note that these draft recommendations are similar  
4 to the Commission's two past recommendations on data  
5 collection reporting, but they differ in that we are stating  
6 a specific date by which the Secretary should make the  
7 recommended changes.

8 As for implications of this recommendation, CMS  
9 would require a substantial level of resources to report  
10 HEDIS measures on a market-by-market basis in fee-for-  
11 service, but it would improve beneficiaries' ability to make  
12 comparisons. Entities that would be newly required to  
13 report lab results would face additional costs and burden.

14 In the HEDIS discussion, I mentioned that only  
15 HMOs are allowed to use medical record review as a basis for  
16 reporting certain HEDIS measures. In this draft  
17 recommendation, we suggest that all health plan types, HMOs,  
18 PPOs, and private fee-for-service plans, should be on the  
19 same footing and that all types of plans should report on  
20 measures that are based on extraction of information from  
21 medical records. In order for the Secretary to fully  
22 implement the recommendations, the statute would need to be

1 changed to eliminate an exception to medical record-based  
2 reporting for some plan types.

3           Therefore, draft recommendation four, which  
4 pertains only to the MA-to-MA comparison, states, the  
5 Secretary should have all health plan types, HMOs, PPOs, and  
6 private fee-for-service plans, report measures based on  
7 medical record review, and the Congress should remove the  
8 statutory exceptions for PPOs and private fee-for-service  
9 plans with respect to such reporting.

10           The implications of this recommendation are the  
11 CMS will require a modest level of additional resources to  
12 collect the necessary information and report it for each of  
13 the smaller geographic areas. For beneficiaries, this will  
14 allow better comparability of quality measures, but many  
15 plans would face additional burdens and costs because of the  
16 need for labor-intensive medical chart review among plans  
17 that do not have advanced electronic health records.

18           John will now discuss ways in which to improve  
19 quality reporting for each sector, MA and fee-for-service,  
20 from a near-term and longer-term perspective.

21           MR. RICHARDSON: An issue of concern we have  
22 discussed in prior meetings is whether the current HEDIS

1 measures are sufficiently comprehensive to adequately  
2 measure quality of care for Medicare beneficiaries. Among  
3 the HEDIS measures currently in use for MA plans, few non-  
4 drug-related measures apply to the oldest Medicare  
5 beneficiaries.

6           For example, of the six intermediate outcome  
7 measures, only one applies to beneficiaries between 75 and  
8 85 years of age, and none applies to people over 85. All  
9 nine of the HEDIS diabetes care quality measures are  
10 reported only through age 75. While there may be sound  
11 technical reasons for imposing age limits in the diabetes  
12 quality measures specifications, for example, the fact  
13 remains that the specifications exclude a significant  
14 portion of beneficiaries with diabetes from the quality  
15 measurement.

16           Also, measures for the care of certain conditions,  
17 such as mental health care, exist in HEDIS, but are reported  
18 for such small numbers of beneficiaries that they  
19 essentially cannot be reported in their current form. There  
20 also are gaps in measures for certain types of providers,  
21 such as those serving rural areas. There also are few HEDIS  
22 measures that could show the effects of health plans' value-

1 added activities, such as outcome measures, like admission  
2 rates for ambulatory care sensitive conditions, and the  
3 rates of potentially preventable emergency department  
4 visits. That could show whether a plan's providers deliver  
5 care coordination services, such as care transition  
6 management and medication reconciliation post-hospital  
7 discharge.

8 Last, some of the quality measures currently used  
9 in fee-for-service, such as outcome measures, like  
10 readmissions and mortality rates that are used in Hospital  
11 Compare and perhaps certain process measures from the  
12 Physician Quality Reporting Initiative, could be used to  
13 expand the breadth of quality measurement in MA and in  
14 quality comparisons between MA and fee-for-service.

15 We have also discussed another large gap in  
16 Medicare's current quality measures by looking at four types  
17 of patient outcome measures, which are shown at the top of  
18 this slide. All of these measures can be calculated using  
19 available claims data in fee-for-service Medicare. They  
20 also could be computed for MA plans using the encounter data  
21 that CMS will require MA plans to report in 2011 if the  
22 specifications for those data submissions include the



1 elements needed to compute the measures. Outcome measures  
2 could be very useful indicators of the value-added functions  
3 of MA plans, such as helping plan members manage their  
4 chronic conditions.

5 Risk adjustment is also a very important factor in  
6 evaluating how to use outcome measures like these because  
7 the results can be affected by factors outside the control  
8 of providers and plans, such as patient behaviors, socio-  
9 economic conditions, and overall case mix and disease  
10 prevalence in the area or the plan being measured.

11 I will return to this point later, but for now,  
12 simply take note of the fact that EHRs could be an  
13 invaluable source of the data in the future that could be  
14 used to refine risk adjustment for outcome measures in both  
15 MA and fee-for-service Medicare. In the meantime, we have  
16 concluded that the four types of measures shown here would  
17 be an informative set of outcome measures that can be  
18 calculated and risk adjusted to a certain extent using fee-  
19 for-service claims data and MA encounter plan data.

20 This discussion of gaps in the current quality  
21 measurement system leads us to our fifth draft  
22 recommendation, which reads, the Secretary should develop

1 and report on additional quality measures for MA plan and  
2 MA-to-fee-for-service comparisons that address gaps in the  
3 current quality measures. In developing these additional  
4 measures, we would anticipate that the Secretary would  
5 assess the feasibility of using or adapting existing  
6 measures, including those used in fee-for-service Medicare,  
7 measures used in Medicaid managed care and fee-for-service  
8 programs for adults with disabilities, and measures  
9 developed by health services research organizations, such as  
10 the Assessing Care of Vulnerable Elderly, or ACOVE, measures  
11 developed by researchers at RAND.

12           Implications of draft recommendation five are that  
13 there would be increased CMS costs to develop and implement  
14 these two measures, but beneficiaries would have more  
15 pertinent quality information available to them based on  
16 specified characteristics, such as disease or race or  
17 ethnicity, and that there would be increased provider costs  
18 for collecting and reporting data needed for these new  
19 measures.

20           As I noted a couple of minutes ago, there are four  
21 different types of patient outcome measures that could be  
22 calculated using claims or encounter data. Draft

1 recommendation six pertains to the encounter data  
2 submissions that CMS already will require MA plans to submit  
3 starting in 2011, and this draft recommendation reads, the  
4 Secretary should publish specifications for the forthcoming  
5 MA plan encounter data submissions to obtain the data needed  
6 to calculate patient outcome measures.

7           Just as a reminder, we had in mind here the  
8 following four types of outcome measures: Potentially  
9 preventable admissions for ambulatory care sensitive  
10 conditions, readmissions for selected conditions,  
11 potentially preventable emergency department visits, and  
12 mortality rates for selected conditions.

13           The implications of this draft recommendation are  
14 that there would be no additional CMS costs above the  
15 baseline costs already assumed to specify and collect  
16 encounter data from MA plans, that there would be more  
17 information available to beneficiaries on patient outcomes  
18 when comparing MA plans and when comparing between MA and  
19 fee-for-service. However, providers and plans could incur  
20 costs above the baseline costs that are already assumed for  
21 the plan encounter data collection and reporting.

22           We are almost done. The next draft recommendation

1 concerns the meaningful use criteria with respect to  
2 electronic health records that will qualify for Medicare  
3 payment incentives that were authorized under the Economic  
4 Stimulus Law enacted earlier this year. The EHR meaningful  
5 use criteria will be defined by CMS through regulations that  
6 are expected to be issued by December of this year.

7           Draft recommendation seven reads, the Secretary  
8 should define EHR meaningful use criteria such that all  
9 qualifying EHRs can collect and report the data, including  
10 demographic data, needed to compute a comprehensive set of  
11 process and outcome measures consistent with these  
12 recommendations.

13           This recommendation would provide input to CMS to  
14 shape the definition of meaningful use to support the types  
15 of quality measurement that are considered in the other  
16 draft recommendations. For example, the Commission could  
17 recommend that all qualifying EHRs have the capability to  
18 report laboratory test values for the HEDIS intermediate  
19 outcome measures and the capability to report demographic  
20 and clinical data needed to calculate and risk adjust  
21 outcome measures. We expect that the breadth of quality  
22 measures, and therefore the definition of meaningful use of

1 EHRs, will also evolve over time.

2           The implications of this draft recommendation are  
3 that there would be no additional costs for CMS beyond the  
4 baseline costs that exist already for implementing the EHR  
5 meaningful use criteria. However, there would be much more  
6 information available to beneficiaries on a full scope of  
7 quality measures with reporting by race, ethnicity, gender,  
8 and age group, just to name a few demographic  
9 characteristics. There also would be no provider costs  
10 beyond baseline spending to acquire and use EHR systems that  
11 meet CMS's meaningful use criteria.

12           And last, draft recommendation eight. This draft  
13 recommendation relates to the importance of making sure that  
14 there would be sufficient funding for the Department to  
15 implement the Commission's other recommendations. Draft  
16 recommendation eight reads, the Congress should provide the  
17 Secretary with sufficient resources to implement the  
18 Commission's recommendations in this report.

19           The draft text shown in italics on this slide  
20 would explain the reasoning behind the draft recommendation,  
21 and we felt it important enough to have on the same slide.  
22 The reasoning is that the resources required to implement

1 the recommendations in this report are likely to be  
2 substantial. It is important to beneficiaries, providers,  
3 and policy makers that quality between MA and fee-for-  
4 service Medicare and among MA plans be accurately compared  
5 and the unintended consequences of inaccurate quality  
6 comparisons, which I should point out would be the likely  
7 result of inadequate funding, would be costly and  
8 detrimental. Because of this, we believe dedicated  
9 resources are necessary. The Secretary should submit a  
10 budget proposal to the Congress that specifies an estimate  
11 of the level of funding needed to implement the  
12 recommendations in this report.

13           The implications of draft recommendation eight are  
14 increased costs to taxpayers, beneficiaries, or plans,  
15 depending on the funding approach chosen by the Congress,  
16 and there also could be potential additional costs to  
17 beneficiaries or plans, again, depending on the funding  
18 approach chosen by the Congress.

19           That concludes our marathon here. In the event it  
20 is helpful, put back up the roadmap table and we look  
21 forward to your questions and discussion.

22           MR. HACKBARTH: Okay. Here is the approach I

1 would like to follow. We will do the round one clarifying  
2 questions, and then when we go to round two, what I would  
3 like people to do is specifically address the  
4 recommendations and identify which you can support and which  
5 are more problematic for you and why so we can give Carlos  
6 and John very specific feedback so we can wrap up this  
7 report. So let me see hands for round one clarifying  
8 questions.

9 MR. BERTKO: The first question is on the  
10 mortality reports out there. Are you thinking of hospital-  
11 based mortality only? Hospital plus 30 days after  
12 discharge? Hospital plus 90 days after discharge? And if  
13 the latter two, where would the mortality report come from,  
14 since I am at least unaware of health plans, for example,  
15 being aware of when people actually die.

16 MR. RICHARDSON: We were thinking about 30-day  
17 post-discharge to maintain reasonable consistency with what  
18 CMS already does for Hospital Compare. All of those  
19 measures would be calculable -- in the case of MA plans, you  
20 would need to get encounter data or EHR data eventually that  
21 would do that. In the case of the calculations based on  
22 encounter data, CMS would have to do that, which is why we

1 were talking about the resource needs for them, and  
2 presumably they would do what they do with the fee-for-  
3 service, where they would use the enrollment database or the  
4 Social Security death records to confirm what the date of  
5 death was, and then calculate --

6 MR. BERTKO: Okay. So CMS would do all that.  
7 That is --

8 MR. RICHARDSON: Yes. Obviously, the encounter  
9 data piece would be from the plans, but CMS would be doing  
10 the calculations, which is why that resource piece is in  
11 there.

12 MR. BERTKO: And then the second question on  
13 clarity is, is your statement on the collection of lab,  
14 clinical results data, implicitly saying that clinical data  
15 would be added to a billing form in order to allow the bill  
16 to be paid, so that would become the collection mechanism?

17 MR. RICHARDSON: One could do it that way. One  
18 could also, to the extent that there's another database that  
19 would have laboratory test values in it, somehow merge  
20 those. But I think that the claim-based approach is the one  
21 that we were thinking of.

22 MR. BERTKO: Yes. I'm thinking that Statewide



1 reference labs are quite good, but they have only -- at  
2 least when I was at a health plan, only 50 percent of the  
3 data collected in lab results from doctors' offices, and to  
4 some extent hospitals, it is not collected anywhere unless  
5 you have an EMR, and those are not always prevalent.

6 MS. HANSEN: Two short clarifying questions. On  
7 draft recommendation number four on page 17, the last  
8 comment of including PPOs and private fee-for-service, this  
9 would be probably the first attempt at bringing everybody  
10 under the tent in order to have similar reporting  
11 requirements?

12 MR. ZARABOZO: Well, no. All plans will be  
13 reporting, you know, beginning 2011. But this is sort of a  
14 narrow issue that in the statute, it says, for example, PPOs  
15 only have to report on the performance of their network  
16 providers. Now, it looks like in reality they are reporting  
17 for all providers, at least based on discussions with CMS,  
18 but there is that statutory provision that limits who they  
19 have to report on. There is also another provision that  
20 came from MIPPA that said that for the medical record-based  
21 measures, that the private fee-for-service plans did not  
22 have to do those. It is a little bit complicated wording,

1 but that is the gist of it.

2 MS. HANSEN: But it brings them back in --

3 MR. ZARABOZO: Right. This is intended to bring  
4 everybody on the same level.

5 MS. HANSEN: Great. And then back to page 14, in  
6 terms of what is reported, you have pharmacy data there, and  
7 I know it's very difficult to gather if you don't have an  
8 EMR system, but that would not be -- or how does that relate  
9 to a previous discussion of bringing in Part D data and --

10 MR. ZARABOZO: This assumes that we have Part D  
11 data.

12 MS. HANSEN: Okay.

13 MR. ZARABOZO: This says this is currently  
14 available on both sides, essentially.

15 MS. HANSEN: All right. Thank you.

16 MR. HACKBARTH: Could I just follow up and ask my  
17 clarifying question? It has to do with 17. I'm sure I'm  
18 missing something obvious here. So we're saying now we're  
19 going to create a level playing field, as it were, among the  
20 different types of MA plans and say they all have to have  
21 medical record-based measures. What about fee-for-service  
22 Medicare?

1           MR. ZARABOZO: Well, that is the point that we  
2 made, that CMS doesn't have access to medical records  
3 currently --

4           MR. HACKBARTH: Right.

5           MR. ZARABOZO: -- so this is -- what we lay out is  
6 you can do administrative measures right now comparing --  
7 HEDIS administrative measures, you can do fee-for-service to  
8 MA. The medical record thing, this recommendation pertains  
9 to the MA-to-MA comparison. We want everybody within MA to  
10 be on the same footing. But there is a gap in terms of you  
11 cannot compare --

12          MR. HACKBARTH: What I am getting at is wasn't the  
13 argument that the private fee-for-service plans made that  
14 they don't have contract relationships, therefore, they  
15 don't have the means, just like fee-for-service Medicare, to  
16 get access to medical records?

17          MR. ZARABOZO: Right, and it's the same issue with  
18 the PPOs. This would require them to go into offices where  
19 they do not have a contractual relationship.

20          MR. HACKBARTH: Was it on this particular issue,  
21 Herb?

22          MR. KUHN: I'm just curious, Carlos. Is there a

1 way, though, on the fee-for-service side for Medicare to  
2 create a series of G-codes so that they don't have medical  
3 records extraction on the fee-for-service side, but could  
4 they create a set of G-codes that could substitute for this  
5 in the interim?

6 MR. ZARABOZO: Yes, similar to --

7 MR. KUHN: So it could be done.

8 MR. ZARABOZO: Yes.

9 MR. KUHN: It could be done. I mean, it's not as  
10 precise and it's a little bit of a burden on the reporting  
11 side, but it could be done through a G-code set.

12 MR. ZARABOZO: Right, but the --

13 MR. KUHN: With their own code descriptors on  
14 those, et cetera, right?

15 MR. ZARABOZO: You would weigh that against,  
16 though, the outcome -- you know, if there are other measures  
17 that can't be calculated from the claims --

18 MR. KUHN: Right.

19 MR. ZARABOZO: -- what are you looking for in the  
20 way of measures and do you have enough information based on  
21 which you can calculate claims and encounter data to not  
22 make that necessary.

1           MR. KUHN: Right. But for some measures, the  
2 potential is there, though.

3           MR. ZARABOZO: Yes.

4           MR. KUHN: Okay.

5           MR. BUTLER: Okay. I'll ask a little bit of an  
6 unfair question, but I'm hung up a little bit more on the  
7 cost side of putting all this in place, because every  
8 recommendation says CMS more, CMS more, and, in fact, then  
9 you say, or we might say the Secretary should come back with  
10 a budget for us. There's also cost references on the  
11 beneficiary plan and provider side of things.

12           So we're into CBO scoring these days, I guess, but  
13 I'm trying to get some sense of what we're talking about in  
14 terms of either a budget for a CMS side or on the provider  
15 and plan side, you know, wake me up when we've got  
16 electronic health records. Most of the costs will go away.  
17 So just talk a little bit more, if you could, about what we  
18 would -- the backlash we would be getting if we go forward  
19 with this in terms of people's cost burden.

20           MR. ZARABOZO: Well, starting with the plans, I  
21 mean, the big recommendation for the plans is that you  
22 should be reporting in smaller units so that, for example,

1 the California case that we used last time, it would be you  
2 do, in fact, have to report for 11 markets instead of the  
3 one that you're reporting now. So the greatest expense  
4 there is with respect to records requiring medical record  
5 extraction. So that would be the additional expense there.

6 And then if expansion of the Health Outcomes  
7 Survey, the plans pay for the Health Outcomes Survey, so  
8 that would be an additional cost, and I know John wants to  
9 say something.

10 MR. BERTKO: I was just going to say that all of  
11 the big plans with good data systems report it down to the  
12 individual level, and so it's some amount of work to re-cut  
13 these things a lot as opposed to one big dump, but it's not  
14 new data collection. It's just data aggregation reports.

15 MR. ZARABOZO: It's differently reporting the  
16 data, yes, because --

17 MR. RICHARDSON: And that's what I was going to  
18 add, is in terms of the outcome measures, anyway, the main  
19 cost for plans, and assume they would pass some of that  
20 along to the providers who are participating in the plan's  
21 network, you can either look at it -- if you look at it from  
22 the CBO perspective, is it already in the baseline, and CMS

1 has said for a couple of years now that they're going to  
2 obtain encounter data. Of course, that could be this much  
3 or this much and the cost would expand or contract  
4 accordingly. But we're not sure what assumptions would have  
5 been made about how big or small that's going to be. But  
6 given the fact that they've already said that there will be  
7 some attempt to do this and that for other payers, large  
8 plans, as John indicated, may already be able to produce  
9 some of this information, you have to calibrate it that way.

10 On the fee-for-service side for those outcome  
11 measures, as I said in response to John's other question,  
12 CMS would incur the costs for doing that, as they do on the  
13 Hospital Compare mortality rate measures and readmission  
14 rate measures that are already posted for those providers  
15 using claims data.

16 There definitely would be some provider impact. I  
17 think the main impact, though, would be on CMS, which is why  
18 we focused that particular draft recommendation on them.

19 MR. HACKBARTH: Okay. I have Nancy, Arnie,  
20 George, Mike, and Bruce on round one questions.

21 DR. KANE: For slide 14, one question. What do  
22 QIOs do? I was under the impression they went around and

1 did some sort of quality assessments in fee-for-service, and  
2 I just wondered whether they are useful at all, or do they  
3 not do electronic --

4 MR. ZARABOZO: Some of the QIOs have, in fact,  
5 done this kind of comparison, which is the information that  
6 we gave last time in the mailing material from the GEM  
7 project. That was Masspro that did a national level for a  
8 slightly different purpose. Now, almost all of those  
9 measures that they used for fee-for-service were hybrid  
10 measures. In other words, in MA, you would have taken  
11 medical records, and they were just doing a straight  
12 administrative comparison.

13 DR. KANE: But is it possible to consider QIOs as  
14 capable of doing --

15 MR. ZARABOZO: Yes.

16 DR. KANE: So maybe that is --

17 MR. ZARABOZO: Yes. In fact, more than --

18 DR. KANE: -- the not available means it's just  
19 not being done right now, but there is an infrastructure  
20 already that could do it.

21 MR. ZARABOZO: Yes. That's correct.

22 DR. KANE: And my second question is on eight.



1 When you say appropriate geographic unit, you mentioned two  
2 types of geographic units and I just wondered what they were  
3 and are they kind of the kind of markets that the consumer  
4 looking at the data would say, oh, yes, those are real  
5 choices for me, or would they -- I just don't know quite  
6 what you meant.

7 MR. ZARABOZO: We're being intentionally vague  
8 here, which is --

9 DR. KANE: Oh. I thought you were.

10 MR. ZARABOZO: -- it's the appropriate health  
11 market area, and we mentioned that we had recommended in the  
12 payment report a certain geographic reconfiguration for MA.  
13 So you want MA and fee-for-service to be consistent and  
14 presumably consistent with health market areas. I mean,  
15 some people have definitions already of such market areas,  
16 but -- in other words, it needs to be reconfigured. We're  
17 not stating exactly how we think it would be done.

18 MR. HACKBARTH: The language struck me, also, and  
19 why you're being vague here. So my recollection is a couple  
20 of years ago, we looked at the appropriate geographic area,  
21 made a very specific recommendation on how to do that.

22 MR. ZARABOZO: For payment, yes.

1           MR. HACKBARTH: Yes. Why wouldn't use the same  
2 geographic --

3           MR. ZARABOZO: Well, I think if you had the  
4 payment set up in that manner, if you had geographic areas  
5 for payment, then presumably those would be the geographic  
6 areas for these kinds of comparisons. It would make sense  
7 that that is the MA geographic area and, therefore, that's  
8 the appropriate unit for comparison.

9           MR. HACKBARTH: Okay. This language is so vague,  
10 I think people will likely stumble over it, so we may want  
11 to think about saying, oh, we think that there is an  
12 appropriate payment area and it ought to be used for payment  
13 and for this assessment effort.

14          DR. MILSTEIN: Three very circumscribed questions.  
15 The first relates -- the origin is on the private sector  
16 side. Almost every effort to collect encounter data for  
17 managed care plans has been -- it has taken ten times longer  
18 than anybody thought, and about a third of the way through  
19 it, somebody says, gee, I wonder if it would work better if  
20 we were to strongly incentivize the plans to get it right  
21 the first time.

22           My question is, as CMS now has a requirement that

1 plans, you mentioned, submit encounter data by 2011, if the  
2 plans come up with a data file that's completely inadequate,  
3 is there any kind of significant incentive, you know,  
4 disincentive for them to do that, because that's  
5 historically what's happened on the private sector side over  
6 and over again when managed care plans have been asked for  
7 encounter data.

8 MR. ZARABOZO: That depends on CMS, as to what  
9 they would do if they had unacceptable data, essentially.

10 DR. MILSTEIN: But I'm asking you, right now, are  
11 there any contingency -- any incentives on the quality of  
12 that submission and the plans?

13 MR. ZARABOZO: Well, I mean --

14 DR. MARK MILLER: Carlos, there's no penalty if  
15 they submit the data in a way that isn't particular deep or  
16 defined --

17 MR. ZARABOZO: No, not as far as I know.

18 DR. MARK MILLER: So what we may want to talk  
19 about is whether we boost that recommendation. I assume  
20 that's where you're going --

21 DR. MILSTEIN: Exactly.

22 MR. ZARABOZO: Right, but part of the purpose, of

1 course, for the submission of encounter data is to confirm  
2 that benefits were received -- certain benefits were  
3 received, and to validate risk adjustment. So it is very  
4 important data, so I think that CMS would view it as a very  
5 important compliance --

6 DR. MILSTEIN: Thank you. The second question  
7 referred to your comment about if we were to get the HOS  
8 survey going on the fee-for-service side, it would be a  
9 couple years before we could look at deltas and two-year  
10 change in health status. As you were researching this, I  
11 remember you had shared with some of us -- I remember it --  
12 the fact that there was this small residual unit within CMS  
13 that still retained -- it originally was measuring the HOS  
14 in the fee-for-service population and still maintained a  
15 capability of doing it and also had referred to the fact  
16 that they had a sort of a slice-in-time approach to also  
17 judging quality that didn't require the two-year delay. If  
18 this is not ringing a bell, don't feel you have to answer  
19 this, but since I thought you were aware of it, I wanted to  
20 know --

21 MR. ZARABOZO: Yes, but I think -- I'm not  
22 entirely recalling whether it was based on the CAHPS -- the

1 questions asked in CAHPS that were the HOS questions,  
2 whether that was what they used --

3 DR. MILSTEIN: Oh, maybe --

4 MR. ZARABOZO: And then the stopped asking those  
5 questions in the CAHPS survey.

6 DR. MILSTEIN: Thank you for clarifying.

7 The last question, do you anticipate -- your  
8 recommendations -- you also referred briefly to the fact  
9 that when you -- based on CMS's current system, the number  
10 of plans on HOS whose health status change is different than  
11 expected is very small, but obviously it is hugely dependent  
12 on how you set the calibration for what kind of a difference  
13 you allow people to see. In the next iteration of this,  
14 were you going to be addressing that issue of kind of degree  
15 of -- where you set the degree of difference? I mean, is  
16 that -- you referenced it as a problem, but I wasn't sure --

17 MR. ZARABOZO: Well, we suggested that if you want  
18 to show more differences, you would have to lower it, yes --

19 DR. MILSTEIN: Thank you.

20 MR. ZARABOZO: But we have not talked to the HOS  
21 people yet at CMS about that.

22 DR. MILSTEIN: Thank you.

1           MR. GEORGE MILLER: I want to follow up on Nancy's  
2 point on recommendation one. I was a little bit confused.  
3 I think I got the answer, but just to clarify that just a  
4 little bit, I believe the definition may -- a clear, as you  
5 said, Glenn, a clear definition would deal with it. But I  
6 guess I want to deal with the issue still of disparities and  
7 if we'll be able to tease that information out depending on  
8 the definition of geographic unit. If it's small enough,  
9 would -- I guess my question is, would we be able to  
10 determine that versus the larger group, and thus, I guess,  
11 the definition would help determine that?

12           MR. ZARABOZO: Well, I mean, once -- we have  
13 raised the issue that for some geographic areas, you will  
14 have very small numbers. The total number will be very  
15 small. So within that number, you cannot do anything -- if  
16 that's not statistically valid for results, then within  
17 that, you cannot have valid results. So in terms of, like,  
18 disparities, you might say, well, we'll look at a larger  
19 area. We're concerned about disparity, so we'll look at  
20 larger areas to get enough numbers to be able to make  
21 judgments about what is happening. So you have person-level  
22 data that enables you to look in different ways at the data

1 that you receive.

2 MR. GEORGE MILLER: But if I'm trying to determine  
3 what's a good quality provider for me and I can't get that  
4 data from the size, then I want to go to another -- a better  
5 provider. I mean, if --

6 MR. ZARABOZO: Well, we also -- I mean, in the  
7 same way that we said you could maybe use a three-year  
8 rolling average, the same would apply here. If you're  
9 talking a small geographic area, you might want to use a  
10 three-year rolling average. It may give you enough  
11 information to say, for the following kinds of people in  
12 this area, this plan performs in this way.

13 MR. GEORGE MILLER: I'm not sure that deals with  
14 the problem, but --

15 MR. HACKBARTH: So what I hear you asking for,  
16 George, is for information on disparities presented in a way  
17 to help guide patient choice, beneficiary choice --

18 MR. GEORGE MILLER: Right.

19 MR. HACKBARTH: -- as opposed to having person-  
20 level data that can be analyzed for research purposes or  
21 other policy purposes. I think those tasks are different  
22 and --

1           MR. RICHARDSON: I was just going to say, another  
2 issue that bears on this is that a lot of the data that we  
3 have on race and ethnicity, for example, is very poor, and  
4 the Institute of Medicine has released a report recently on  
5 how we could get better quality, pardon the expression, data  
6 on that out of the health care system, but we are attempting  
7 to address that through the EHR recommendation, where we  
8 suggest that the Commission, if it wanted to, could specify  
9 the types of information that should be part of every EHR  
10 that qualifies for a Medicare subsidy should capture that  
11 information, and the Department has already in its  
12 deliberations on what meaningful use criteria should be  
13 thought about this. I don't want to say this is original  
14 necessarily, but that's where -- and to the extent that  
15 there are small numbers and you want it to be relevant to an  
16 individual making a decision in a relatively local market  
17 area, if you had better information on more of the  
18 population, then some of the small number issues might go  
19 away even in a small area, and so that's how those two could  
20 work together.

21           MR. GEORGE MILLER: It's an access issue, also.

22           MR. ZARABOZO: There's also a separate report on



1 disparities reporting on quality indicators. As we  
2 mentioned, MIPPA had that provision, so there's more coming  
3 on it which HHS is doing, yes.

4 DR. CHERNEW: I just want to make sure I  
5 understand recommendation one. If an MA plan serves  
6 multiple geographic areas, under that recommendation, they  
7 would be required to report separately all of the different  
8 quality things that they report. So if they do HEDIS now  
9 for the entire plan, which could be the entire State, and  
10 now there were five market areas in a State, under that  
11 recommendation, they would have to report five different  
12 HEDIS measures.

13 MR. ZARABOZO: Yes, because right now they would  
14 say, for example, 80 percent of our diabetics do get eye  
15 exams, but, of course, it varies from area to area, so it  
16 might be --

17 DR. CHERNEW: Right. And so if they're doing, for  
18 example, the hybrid method, they would have to do the hybrid  
19 method --

20 MR. ZARABOZO: Correct.

21 DR. CHERNEW: -- in each of their market areas.

22 MR. ZARABOZO: Right.

1 DR. CHERNEW: And so some of their measures are  
2 medical review. They will have to multiply the medical  
3 reviews by --

4 MR. ZARABOZO: Yes.

5 DR. CHERNEW: And so the last question is, if they  
6 -- you have an example in the chapter about Tallahassee,  
7 right, and where they only had a few -- some of the plans  
8 only had a few people in Tallahassee. Would they have to do  
9 this for market areas that were sort of on their fringe that  
10 they didn't have -- so say they had 95 percent of their  
11 people in one area and there were a few that were kind of  
12 living -- how would --

13 MR. ZARABOZO: Well, see, in that case -- what  
14 happens often now in the Medicare.gov, the health plan, the  
15 options compare, many measures, they say, not enough  
16 information to report on this measure. So in that case, it  
17 would probably be that in Tallahassee, there's not enough  
18 information. You could say this plan overall in Florida  
19 performs this way. We cannot tell you how it performs  
20 specifically in Tallahassee, something like that.

21 DR. CHERNEW: So if I understand that, there could  
22 be a minimum -- you have to report in all of these different

1 market areas provided you have more than X-number of people  
2 in those market areas. That's the type of thing you would  
3 say.

4 MR. ZARABOZO: Right.

5 DR. STUART: I also had a question on one, and I  
6 have a suggestion, and that is appropriate geographic unit  
7 would have to be explained in the notes and it just sets  
8 everybody off. So let's call it local market area, because  
9 that's what you talk about in the text, and then you could  
10 explain that in the notes, too. And if we can't say exactly  
11 what that should be, particularly if it's contingent upon  
12 payment area designations, I think that's fine. But at  
13 least let everybody know that when we're voting on this,  
14 we're voting on something that we read in the text that says  
15 local market area.

16 MR. HACKBARTH: The reference "local market area"  
17 to me is vague, just in a different way, and what I'm saying  
18 to Mark is that I'm a little puzzled about why we don't just  
19 say the payment areas that we recommended in our report  
20 dated such and such, when we described how we got to them.  
21 It seems to me you want to sync up payment rates,  
22 information on quality in order to facilitate beneficiary

1 choice. Is there something that I'm missing?

2 MR. ZARABOZO: No, I think that's fine.

3 DR. CHERNEW: For example, the sample size  
4 requirements that you might come to when you -- I don't know  
5 how big the payment areas are, but the sample size  
6 requirements that you might come to when you worked through  
7 what's needed to get valid quality measures might push you  
8 to a different market area than you might have wanted to do  
9 when you -- I'm not saying it did, but it could, depending  
10 on --

11 MR. HACKBARTH: Yes, although there is, of course,  
12 a tradeoff there. If what you're doing is expanding the  
13 area to create numbers for your "n," you're also getting a  
14 more diverse delivery system where their performance  
15 distribution is probably broader, too, and --

16 DR. CHERNEW: That's round two.

17 MR. HACKBARTH: That's round two.

18 [Laughter.]

19 MR. HACKBARTH: But we just finished round one.  
20 Bruce is the last one, so --

21 [Laughter.]

22 MR. RICHARDSON: I don't want to get in the middle

1 of that --

2 MR. HACKBARTH: John has a round one-and-a-half  
3 comment.

4 MR. BERTKO: I'm going to follow up just with that  
5 payment area one, because if you follow through some of the  
6 things being proposed, it's payment areas plus quality  
7 bonuses, then it makes complete sense to match up the  
8 payment area no matter what happens. And if you're too  
9 small, you're not eligible for a quality bonus, which means  
10 you fold your tent.

11 MR. RICHARDSON: I just have one comment. You  
12 could also expand time, of course, as well as the geographic  
13 area, and we talk about that in the paper, do something like  
14 a three-year rolling average within that area, which allows  
15 you to get more people longitudinally as opposed to  
16 geographically.

17 MR. HACKBARTH: Let me ask -- I think this is a  
18 round one question. I'll rule it in order. So would you  
19 put up 14? For some reason, when I looked at this for the  
20 first time as you did the presentation, a bell went off in  
21 my head. On both sides of this, for fee-for-service  
22 Medicare and MA plans, we're talking about a distribution of

1 performance, and that's especially true in fee-for-service  
2 Medicare. For some of the big network private MA plans,  
3 again, you're going to have a broad range of performance.

4 So one approach to that is just calculate the  
5 average or the median and report that. And on the private  
6 side, I guess at some level, that makes sense to me in that  
7 they said, we're accountable for the quality here and so  
8 maybe that's okay.

9 Reporting one number, one average number as  
10 representative of the quality in fee-for-service Medicare,  
11 given the huge range in the distribution, almost seems like  
12 more data and less information. If, in fact, what we're  
13 trying to do is guide beneficiary choice, what does one  
14 average number mean on fee-for-service Medicare?

15 Have you wrestled with this at all, about how --  
16 our goal is to provide information to guide choice. How do  
17 we deal with this?

18 MR. ZARABOZO: Well, I mean, we -- on a small  
19 level, the mammography screening and the cost sharing, you  
20 have differences in fee-for-service Medicare as to whether  
21 you have supplemental coverage or you don't have  
22 supplemental coverage. You have different -- so, I mean,

1 you could say, well, actually, maybe you should report by  
2 category in fee-for-service, those with supplemental  
3 coverage, those who don't have it. So there are many ways  
4 to cut the data. I mean, it's an important point.

5 MR. RICHARDSON: The other thing that we've  
6 thought about, going back to the slide I presented on the  
7 three different audiences, you could have different  
8 representations of the results for the different audiences.  
9 But to your point, if a range of values more accurately  
10 captures what's really going on in fee-for-service and you  
11 thought that beneficiaries in making decisions could filter  
12 that information and use that, that's really where the rub  
13 is there. Now, for the purposes of policy makers and other  
14 more sophisticated audiences that might be able to do that,  
15 then that's certainly something you can look at.

16 MR. HACKBARTH: Have private payers wrestled with  
17 this at all, or Jay, do you have any --

18 DR. CROSSON: Well, I don't know how much light it  
19 is. I'm just saying if what we're doing here is basically  
20 comparing a plan in a geography with all the fee-for-service  
21 providers in that same geography, I don't think you can get  
22 much better than that unless you just scrap that basis for

1 comparison and compare delivery systems in one geography and  
2 in another geography. But then in fee-for-service, you get  
3 down to the problem of what's the unit of measurement and  
4 how accurate is that and how many things can you measure at  
5 that level. I think part of the confounding thing is that  
6 the basis of measurement here is plans and then an  
7 artificial geography created to compare to the plan when, in  
8 fact, that range of performance is a range of delivery  
9 system performance, or deliverers' performance, provider  
10 performance.

11 MR. BERTKO: Yes. So, Glenn, I'm going to use an  
12 analogy here. It's almost like on educational testing  
13 results. You can compare school districts, but for a  
14 parent, you want to look at the individual school. I think  
15 we're at the school district level, and I was mentioning to  
16 Mark, I just sat through some efforts -- I heard about  
17 efforts in Minnesota and they're getting mandatory reporting  
18 down to the provider level. So I think maybe there are  
19 other entities out here that are going to do that second  
20 part of the job that everybody around the table would want  
21 to know. It's just I'm not sure that's our job or the job  
22 of CMS in this particular example.



1           MR. HACKBARTH: You know, maybe at some point it's  
2 -- you have online tools for beneficiaries to look at these  
3 data. They see in fee-for-service the average number is  
4 this. If we could refer them to the detailed provider-  
5 specific data within fee-for-service and have that in sort  
6 of a seamless way where people can look behind the average,  
7 maybe that would be helpful.

8           MR. ZARABOZO: Yes, and particularly say that  
9 there is a lot of variability within this area, so you  
10 really should look at the provider differences here, for  
11 example.

12           DR. MARK MILLER: Doesn't some of that exist in  
13 the sense of, like, the Hospital Compare, the Nursing Home  
14 Compare?

15           MR. HACKBARTH: Yes.

16           DR. MARK MILLER: I mean, so in a sense, you can  
17 look at your area and then --

18           MR. HACKBARTH: Okay. Let's see hands for round  
19 two.

20           MS. BEHROOZI: This is actually just kind of  
21 coming off of what George is talking about --

22           MR. HACKBARTH: Okay. Go ahead.

1           MS. BEHROOZI: -- what's the purpose of doing  
2 this? I feel like all it's really about is the extra money  
3 for MA justified by higher quality. So it's not really  
4 about individuals making choices because the individual is  
5 more likely to make a choice based on the extra benefits  
6 than on generically should I stay in fee-for-service rather  
7 than go for one of these plans where I'm going to get the  
8 extra benefits. So, you know, it does feel like the  
9 individual choice thing is really very different --  
10 qualitatively different. It kind of doesn't belong on the  
11 same page, whatever that means. Wherever that takes us.

12           MR. HACKBARTH: Okay. So the second round, and  
13 remember before you put your hand up, I'm going to ask which  
14 of the recommendations you favor, which of the  
15 recommendations you have concerns about. John?

16           MR. BERTKO: First off is a wide-ranging question  
17 or comment, which is the timing on all this. Just thinking  
18 through here, this seems most contingent on CMS getting  
19 enough money to do this, and my suggestion partly is that we  
20 list them not with defined dates and times, but something  
21 like two years after the appropriation is passed, because I  
22 was thinking that suppose you had an appropriation even in

1 early 2010. CMS doesn't have the people and they have to go  
2 out and do the contracting, and then it would collect the  
3 data, then it would test and field test what was going on  
4 and stuff might be available at the earliest sometime in  
5 2012. So there is this big timing issue.

6           And then related to that is the comment earlier on  
7 the lab tests. It's almost like -- I mean, I think maybe it  
8 was Peter who said, wake me up when the EMRs have arrived.  
9 I kind of -- I mean, it's going to happen, but the question  
10 is when. If we want to have lab test data in there, which I  
11 think is really, really useful, we want to say, do this --  
12 include this two years after you have authorized the billing  
13 form to collect the lab data. I mean, I think you said it  
14 more tactfully, John, but there's no way you're going to get  
15 the lab data from doctors' offices and hospitals unless you  
16 put it on the payment form because then they get paid when  
17 they submit it with a full form, not any other way.

18           DR. SCANLON: An incredible piece of work here, so  
19 thank you. I'm supportive of the recommendations, but I'd  
20 like to sort of think about two phases in some respects. I  
21 mean, I think that if you look at this, in some ways, what  
22 we're getting is a quilt of quality measures. I mean, we're

1 picking up scraps here and there. We're forcing people to  
2 produce some more scraps and we're going to put them  
3 together and this is going to be our quality measurement,  
4 okay. Right.

5           And I think that, I mean, following up on what  
6 Peter said about EHRs and John just repeated it, if we don't  
7 get demanding, we're not going to see them, okay, and that's  
8 what we've got to do here. We're investing \$35 billion,  
9 roughly, sort of in EHRs, ten times what we were talking  
10 about this morning with respect to medical education, and so  
11 we've got to get a return for that investment. And I think  
12 that if we are insistent, we will. If you think about what  
13 EHRs could do in terms of the transmission of data, you  
14 could have a whole different perspective on what's possible.

15           And just building off of what John said in terms  
16 of payment, HIPAA, sort of from 1996, one of the promises of  
17 it was the administrative simplification. We were going to  
18 standardize the claim and it was going to be so easy for  
19 everybody to send in claims. Well, it didn't happen. We  
20 have a claim and then we have attachments to claims. And  
21 since 1996, we've decided we need to do quality measurement.  
22 And so we have quality measures that people specify, but you

1 listen to providers and they'll tell you 17 different payers  
2 want the same measure but somewhat differently, a different  
3 denominator, different numerator.

4           And so what we've got to think about is how can we  
5 take advantage of the CHR to standardize the information  
6 that comes in on a claim, provides the building blocks to  
7 measure quality, to measure performance, to be able to risk  
8 adjust, and I think those things are all possible, and I  
9 think that this is the point where we've got to do it  
10 because if we don't, if we wait until EHRs have sort of more  
11 prevalence, their immediate response is going to be, oh, we  
12 can't do that. We've already programmed the systems and  
13 it's going to be impossible sort of to change things. So I  
14 think that that sort of would be my primary focus.

15           The only thing about the recommendations that I  
16 would differ with a bit is the issue of using sort of -- I  
17 think it was tied to the meaningful use recommendation --  
18 was the idea of getting demographic data. I don't know what  
19 demographic data we should be getting from providers versus  
20 what demographic data we should have otherwise. The  
21 Medicare program already has sort of good age and gender  
22 information. To have providers send in information that may

1 conflict with that and create sort of problems from an  
2 analytic perspective, that doesn't seem to gain anything.

3 Race and ethnicity, the National Committee on  
4 Vital Health Statistics issued a report about three years  
5 ago, or three or four years ago, where they looked  
6 extensively at the issue of race and ethnicity, how  
7 complicated it is to actually capture that correctly,  
8 because -- I mean, particularly ethnicity. You've got sort  
9 of a whole series of questions about that.

10 The issue there is get it once right and use it,  
11 as opposed to again sort of having the potential for too  
12 much conflicting information to come in and have people  
13 discount things that you say because they say, well, your  
14 data, it wasn't really there for payment purposes and it's  
15 not reliable. I think we want to say to Medicare, invest  
16 the money in getting the right demographic information so we  
17 can use it for all the subsequent analyses that we're going  
18 to do.

19 MR. HACKBARTH: On your first point, Bill, about  
20 EHRs, one approach would be to say we don't do anything. We  
21 don't do any of the short-term stuff. We focus just on  
22 getting EHRs set up so we can do this in an automated way in

1 the future. I don't hear you saying that. You say, yes,  
2 let's do some of the pre-EHR stuff, but you want to hit  
3 harder on the importance of getting this right in EHRs.

4 DR. SCANLON: Right. I mean, it's both. I think  
5 in the short term, we need this information, and in the  
6 longer term, providers will get relief in terms of being  
7 able to use their EHR to submit this information, and it  
8 will all come sort of automatically. I mean, that sounds  
9 naive at this point in time given where EHRs are, but it's  
10 feasible. I mean, we know that technologically it's  
11 feasible.

12 MS. HANSEN: I think the one thing relative to the  
13 meaningful use, I appreciate John's segment pointing out how  
14 the age demographic is something that's collected now, but  
15 what's often not cut finer is the 75 and then the 85-plus.  
16 So if we're going to start establishing that baseline now, I  
17 really feel very strongly to take up on that recommendation  
18 on number four to really -- or I think it's number one --  
19 that specifies the need to make sure we have those cut  
20 points, because I think even clinical recommendations is for  
21 the 65 and older. So if we start collecting that way, we  
22 can begin to track the data this way.

1           My only other comment has to do with I appreciate  
2 the fact that you identified three different audiences to  
3 whom this quality information would occur, and when I think  
4 about the beneficiary aspect and the star system that has  
5 been identified, I'm curious, because again, the desire to  
6 make it useful for people, have there been any studies about  
7 the value of the star system so far? I know everything was  
8 moving in that direction, but have people really used it to  
9 have any meaningful choice as a result of seeing this rating  
10 system?

11           MR. ZARABOZO: Well, part of the reason for the  
12 star system was because that's how CMS had done some focus  
13 groups and that was what was most easily understood by the  
14 beneficiaries. So they're putting a lot of effort into the  
15 star system. Now, whether people use it or not --  
16 apparently Herb knows.

17           MR. KUHN: You know, I haven't seen the analytical  
18 work, but what I just know anecdotally is each and every  
19 year when CMS has the open enrollment period from mid-  
20 November to the end of December for the PDP plan  
21 specifically, and also with the MA which goes into the  
22 following year, the State Health Insurance Programs, the



1 SHIPs, who get funding from CMS who are really the  
2 counselors that help people choose the PDPs use that star  
3 rating system heavily. So anecdotally, there's a heavy  
4 reliance on that. So they've found it useful and very  
5 valuable.

6 DR. CHERNEW: Academic literature on the response  
7 to report cards in general, not necessarily this particular  
8 star system, is that it moves a relatively small percentage  
9 of people, but you get sort of different studies doing  
10 different approaches. You get a relatively small percentage  
11 of people to change. Now, some people, of course, would  
12 have chosen the thing that had a really good rating anyway,  
13 so they wouldn't have changed, and so you get a small but  
14 statistically significant effect in most studies.

15 DR. MARK MILLER: I thought the other thing the  
16 literature says is that it often compels the provider or the  
17 plan to change.

18 MR. HACKBARTH: Jennie, did you want to say  
19 anything about where you stand on the recommendations?

20 MS. HANSEN: Yes. I'm generally supportive.

21 MR. HACKBARTH: Okay. Peter?

22 MR. BUTLER: I'm supportive of my recommendations,

1 but I would suggest a little bit of the emphasis. I think  
2 Mitra highlighted the kind of what are we trying to do here  
3 in the beginning, compare MA plans to fee-for-service plans,  
4 and you say, well, it's kind of tough to do and we're doing  
5 the best we can. But while we're here, the more important  
6 issue probably is building and supporting some  
7 infrastructure within CMS and getting that going now because  
8 measurement will be a key part of the future, and if we  
9 delay on kind of getting momentum about that, we'll never be  
10 able to do this. And so I do think that CMS's role in this  
11 and what they ought to be doing now to get ready for it is  
12 as important as the specific questions that were asked as a  
13 part of this effort. So I would just rank order that a  
14 little higher or finish with it as part of our  
15 recommendations.

16 MR. HACKBARTH: Anybody else on this side want to  
17 comment on the recommendations? I will interpret silence as  
18 assent if I don't hear anything.

19 Bob? Let's go down this way.

20 DR. BERENSON: I strongly endorse recommendation  
21 eight, which is the one that says provide adequate resources  
22 or all sorts of bad things will happen, and I would include

1 the couple of pages in your background paper which identify  
2 the limitations of these comparisons and would include the  
3 discussion that Glenn and Mitra had, which I concur with,  
4 which is I don't think most beneficiaries look at how is the  
5 fee-for-service system in my area doing compared to MA as  
6 sort of a threshold question. They ask, do I want to change  
7 from my particular circumstances to an MA plan.

8           And so I -- I mean, if we wanted to get the first  
9 part, I mean, the other part, which is for policy makers,  
10 how does MA compare to fee-for-service, we would have a  
11 completely different sampling approach to getting that. We  
12 wouldn't have to set up all that we're setting up.

13           But we're mandated to do it and so I think we  
14 should, but I would emphasize you have to give CMS adequate  
15 resources and here's what could go wrong if you don't and  
16 amplify that.

17           I strongly endorse recommendation seven, which is  
18 the meaningful use one, and I think that's where I'd agree  
19 with Bill. We want to get ahead on that one, and so I'm not  
20 wildly opposed to the others. I think we have to move, but  
21 I would minimize burden in this interim period.

22           So to John's, we could require doctors to submit

1 their lab data, but it's not easy if you're not electronic.  
2 You have to match the lab test that comes back two days  
3 later, or a day later, with the claim that you had at the  
4 time of service. So Herb's suggestion of using G-codes  
5 doesn't work for lab very well. It is a real cost to a  
6 practice, and I think some of what we're asking the plans to  
7 do would be real cost to the plans for a short interim  
8 period, and so I'm not being negative about all the  
9 recommendations. I would be conservative on how much we're  
10 asking at this point plans and providers to comply with.

11 MR. HACKBARTH: Are there specific things that  
12 could be changed in those other recommendations that would  
13 make you feel more comfortable?

14 DR. BERENSON: I'll look more carefully, but I  
15 wouldn't be going to sort of requiring lab data submission,  
16 I guess, at this point. I mean, the whole value of  
17 electronic health record reporting is going to be we can  
18 have meaningful clinical measures and not have to rely on  
19 administrative data, and here we're going to sort of say,  
20 but the best part of administrative data is lab data, so  
21 we're going to go there. I mean, I assume we'll continue to  
22 use lab data in some circumstances, but with a lot more. So

1 I guess I would question whether we want to go for requiring  
2 that. I'd like more discussion or more back-up to convince  
3 me that it was worth doing that to provide that data.

4 On most of the others, I'll look again. I think  
5 I'm in support of the others.

6 DR. KANE: Yes. I mean, overall, I think I'm  
7 supportive, although I was thinking on the Health Outcomes  
8 Survey data, if it doesn't measure distinguishable  
9 differences at this point, should we really require it to be  
10 prepared for the fee-for-service population if we don't see  
11 much variation even within the MA plans? I guess maybe  
12 before we say it should be collected in the fee-for-service  
13 population, should we test and see if it really is going to  
14 be meaningful before we say it should be rolled out for  
15 everybody? I mean, that's just sort of a concern I have.  
16 If it's not picking up anything in the MA, why do we then  
17 turn around and say, put it in the fee-for-service?

18 MR. HACKBARTH: I think this is worth spending a  
19 minute on, and I'll ask Arnie and Carlos to jump in here in  
20 a second. My understanding, my rudimentary understanding of  
21 this is that using 95 percent confidence intervals, using  
22 that as the test, HOS has not picked up significant

1 differences among plans in their performance with these  
2 sample sizes. And so in order to make it a more  
3 discriminating tool, you either have to have much larger  
4 sample sizes or depart from the 95 percent threshold. I  
5 think that's the issue.

6 Now, totally out of my element, I don't have  
7 anything more to say.

8 DR. KANE: Well, I think just simply, rather than  
9 saying they should do this, collect and add it, say we  
10 should test further whether it will develop meaningful data,  
11 and then if it looks like it's feasible, then to go ahead  
12 and roll it out to the fee-for-service population, as well.  
13 That was sort of my draft recommendation, too.

14 And then my only other comment about all of the  
15 recommendations is that I think the beneficiary -- I'm sure  
16 they're interested in plan versus MA, but I think they're on  
17 different issues than we're able to collect here. I think  
18 they might want to know, you know, what do I not have to pay  
19 for out of pocket, or what does my premium do or my drug  
20 plan do. I mean, there's a lot of things a beneficiary  
21 wants to know about a MA versus fee-for-service that isn't  
22 in here.

1           But with respect to what this stuff measures, most  
2 of it's around how their underlying providers behave, and so  
3 I think -- I'm just wondering if our recommendation  
4 shouldn't be much more tailored toward what does CMS need to  
5 know to award bonuses and what do providers want to know  
6 with respect to whether they're going to win a bonus rather  
7 than what do beneficiaries need to know, because I think the  
8 beneficiary really wants to know how is the provider that I  
9 want to -- are they in the plan, and then how do they do  
10 relative to other providers.

11           Maybe that will just simplify some of these  
12 things, because I honestly think a beneficiary is interested  
13 in different questions when they're choosing between plan  
14 and MA, but then there's a lot of very granular things they  
15 want to know about their providers, and so maybe that's a  
16 whole other set of quality measures. Their fee-for-service  
17 comparison questions are different and they're not quality  
18 measures, they are benefit and financial measures. Their  
19 quality measures are not MA versus fee-for-service. They're  
20 which hospital or doctor do I want to pick.

21           So I guess I'm just feeling that this audience,  
22 the beneficiaries, could make this -- if we could take them

1 out as an audience for MA versus fee-for-service comparison  
2 and say maybe we're really just talking about CMS and the  
3 providers themselves, am I going to get a bonus, because  
4 what the CMS wants to know is are these plans really adding  
5 value over fee-for-service, especially when the providers  
6 are exactly the same, and should we be giving a bonus,  
7 because if the providers are exactly the same, are the plans  
8 adding some value?

9           So here, this is a great quilt, as we've described  
10 it, and I agree, but I don't think it necessarily thinks  
11 about the needs of the three audiences, and it might just be  
12 a slightly retweaking the way you present it to get there.

13           MS. HANSEN: Glenn, can I jump in on that? I  
14 think that's a point, Nancy, that makes absolute sense when  
15 what is it that a fee-for-service beneficiary is looking at.  
16 The CAHPS is about the provider per se. And then what  
17 doesn't get measured when you're in an MA plan are some of  
18 the other kinds of things, like the care coordination stuff  
19 that might come about. So there are slightly different  
20 products that are built in implicitly into some of these.

21           So I don't know how you get at it, but I think  
22 your point, and I think what Bob said, also, is what are



1 people looking for. And so somehow we've kind of maybe  
2 clumped them a little bit too much together rather than  
3 understanding what people are getting measured for.

4 MR. HACKBARTH: Would you put up 20 for a second?  
5 So the measures that are here seem to me, Nancy, as  
6 potentially measures that do begin to discriminate between  
7 the plan performance as opposed to just the underlying  
8 provider performance. These are areas where you might  
9 reasonably expect to see a difference in a really well  
10 managed plan.

11 And so it may be that part of the issue here, when  
12 you're thinking about the beneficiary perspective, is what  
13 you highlight, you know, things that are buried in a mass of  
14 data and they might find it difficult to navigate through  
15 that. But if you have a section, here are measures where  
16 plans might reasonably be expected to add value and here's  
17 how your plan does compared to fee-for-service, that might  
18 be useful.

19 DR. KANE: Yes, sort of as a way to kind of  
20 slightly rephrase some of these recommendations, to say for  
21 the beneficiary comparisons, this data set, we recommend.  
22 And that will require a different level of sampling and

1    blah, blah, blah than for the CMS thinking about does a plan  
2    deserve a bonus or not, and might just make it easier, in  
3    effect, to think about how much data you really need.

4           DR. MILSTEIN: Overall, I'm very supportive of  
5    these recommendations. I thought they were just wonderful  
6    to listen to as they were unfolding. So my suggestions are  
7    really, I will call it potential small refinements to what I  
8    think is basically a great set of recommendations.

9           First is I do think we shouldn't -- I think we  
10   should consider in the recommendations not so much resolving  
11   the argument as to whether or not beneficiaries should be  
12   able to see differences of 0.05 or 0.10 or even 0.20,  
13   because I think the research evidence suggests that people  
14   vary in kind of what they -- how much noise they're willing  
15   to tolerate in difference comparisons. There's some  
16   consumer research on this.

17           And so I think we should maybe want to consider  
18   the notion of allowing the user to dial it, you know, dial  
19   it up. So if they're content with -- if they're saying, oh,  
20   I don't want to see any differences unless they're  
21   significant at 0.05, they can do that. I think that's what  
22   Michael would want, whereas I think I talk to my mother and

1 she'd be actually grateful to see differences about which  
2 one was 80 percent certain. That's in the eye of the  
3 beholder and user. That's why I think rather than resolve  
4 it in a way that draws a lot of criticism is to allow  
5 flexibility on the part of the user.

6           The second small point is that -- it's a point  
7 made by others, but I think what people want is the ability  
8 to essentially consider relative performance -- to drill  
9 down, because that allows you essentially to have a dual  
10 picture of am I going to gain or lose if I drop in or drop  
11 out of Medicare Advantage, and if I use my current provider,  
12 how are they -- it's a combination. It's that dyad that I  
13 think is the most relevant. So I think we don't want to  
14 overload this with a reminder that consumers are interested  
15 at the doctor and hospital level, but if we can sandwich it  
16 in there, it would be terrific, because I think that's the  
17 evaluation question that most people want to know.

18           The third point I would make is if you look at the  
19 history of proposed investments in quality information, a  
20 couple comments. Once the information is gathered,  
21 everybody agrees that the value of the information makes the  
22 cost of measuring it cheap. That's been almost everybody's

1 experience.

2           And the second comment I would have is it's always  
3 cheaper than the people think it will be who have to pay the  
4 price, whether it's providers or plans, or in this case,  
5 taxpayers. You know, for example, there was an article this  
6 week in the Wall Street Journal on the Pennsylvania hospital  
7 performance reports, which are by far and away more  
8 demanding than any other hospital reporting system in any of  
9 the other States, because the hospitals have to report not  
10 just administrative data, but a significant amount of  
11 clinical information. And if you look at the beginning when  
12 that started, people were estimating how much it would cost,  
13 how much it would cost the hospitals, and the estimates from  
14 the people who were going to have to collect the information  
15 turned out to be about 3X what it actually turned out to be  
16 once it was routinized. And so I think whatever the cost  
17 estimates are, it'll be cheaper once it's in production and  
18 it'll be very much worth the price, because the comment has  
19 been made before, the cost of ignorance is all around us.

20           The fourth comment is, and maybe this is more of a  
21 question, but the Health of Seniors Survey was what I'd call  
22 sort of an early generation Health of Seniors Survey and

1 there have been subsequent advancement in the methodology  
2 such that now it has a way of getting over what's called  
3 ceiling effects, you know, where you can't identify fine  
4 gradations in change in health status. And so it would be  
5 helpful if this report could address whether or not, as long  
6 as we're reviewing all this, whether this is a moment in  
7 time to consider the sort of next generation Health of  
8 Seniors, that it has a way of, based on the early responses,  
9 homing in with a subset of questions that are geared to the  
10 general health level at which the respondent is functioning.

11           And last but not least, this issue of should we  
12 just wait for electronic health records or should we push  
13 ahead with doctors and labs having to report lab values and  
14 V-codes, you know, should we consider sort of a trigger  
15 structure, since that's popular these days, where  
16 essentially if physicians put in electronic health records  
17 that meet a high meaningful use standard, then they are  
18 spared the requirement of facing a mandatory -- a  
19 requirement that they report a lot of V-codes and/or submit  
20 their lab data. So it becomes yet another motivator for  
21 physicians making this migration that we realize would  
22 dramatically improve our ability to report on quality at

1 multiple levels and to do it a lot more cheaply than we are  
2 doing it now.

3 MR. GEORGE MILLER: This is such a fascinating  
4 discussion. I learn a lot just by listening to all of this.  
5 But I do want to go back to Mitra's comments concerning the  
6 quality issue, and so I've got more of a question concerning  
7 the recommendations, and I think I brought this up last  
8 month.

9 If we determine what meaningful value of quality  
10 is, then can we tie that to whether a MA plan continues to  
11 be funded? I guess I'm concerned about the additional cost  
12 for the MA plan to the Treasury. So how do we define that  
13 meaningful value for the beneficiaries? We have that  
14 program because they get additional benefits. Well, if they  
15 hit some standard, then maybe they get to keep all of it.  
16 But if they don't, then what do we do and what do we  
17 recommend? I don't know if the recommendations speak to  
18 that at all, but since Mitra brought that up, I thought this  
19 would be a good time, because then we're providing a service  
20 to the beneficiaries because that's why they would choose to  
21 go into an MA plan, because of additional benefits.

22 MR. HACKBARTH: You're right that the

1 recommendations don't address that.

2 MR. GEORGE MILLER: Right, but she teed it up, so  
3 I thought I would --

4 MR. HACKBARTH: And, in fact, we don't address it  
5 in fee-for-service Medicare, either. You could say that  
6 providers who are below some quality threshold ought not be  
7 able to participate in traditional Medicare, but we haven't  
8 gone there, either. That's not to rule it out on either MA  
9 or fee-for-service as a place we may want to go in the  
10 future as we develop more robust tools for assessing quality  
11 in each sector, but it's sort of outside what we've been --  
12 the Congress has been willing to consider in either MA or  
13 fee-for-service to this point. So that's why we haven't  
14 explicitly addressed it here.

15 Mark?

16 DR. MARK MILLER: Remember, this was -- I think  
17 I've got this right -- the MIPPA had us do two reports.  
18 This is the second. The first one went out in June 2009  
19 report, and in that report, we said, you know, our basic  
20 posture is that you should have a neutral payment system  
21 between fee-for-service and managed care, but we also said,  
22 over the long haul, if you can compare the differences

1 between fee-for-service and MA, which is what this report is  
2 supposed to do, you could, in fact, pay managed care plans  
3 more if they're better than fee-for-service in their area.

4 So without necessarily doing a hard vote  
5 recommendation, this discussion was included at the end of  
6 that report, is that correct, Carlos?

7 MR. ZARABOZO: That's right, and we mentioned it  
8 again here in the mailing material, in the history.

9 MR. HACKBARTH: Of course, we've also said that  
10 Medicare -- the government ought not pay private plans more  
11 than it would have incurred in traditional Medicare, and so  
12 the whole context for MedPAC's view on this is that the  
13 overpayments are not warranted unless, as Mark says, there's  
14 demonstrable improvement in quality. Other than that, we  
15 shouldn't pay more than traditional Medicare.

16 MR. GEORGE MILLER: But we are currently.

17 MR. HACKBARTH: We are. We're on the record as  
18 definitively as anyone can be that we shouldn't be.

19 MR. GEORGE MILLER: Yes. So what do we do next?

20 MR. HACKBARTH: Well, the Congress is considering  
21 the issue as we speak, and at least right now, both Houses  
22 look to be prepared to significantly reduce the payments to



1 Medicare Advantage plans.

2 MR. GEORGE MILLER: But I guess when I say, what  
3 do we do now, would it be appropriate if we addressed it in  
4 a recommendation now? That probably should be the way I  
5 should have phrased it.

6 DR. MARK MILLER: I think what, at least what I  
7 was trying to refer to and what I think you were referring  
8 to --

9 MR. GEORGE MILLER: If I'm off base, just tell me.

10 DR. MARK MILLER: -- is we're fairly pretty much  
11 on the record at this point for this. I mean, we're on the  
12 record as saying there should be equal payment or a level  
13 playing field between fee-for-service and managed care, and  
14 that was voted on, repeated many times by this Commission.  
15 I think a lot of it was before you got here --

16 MR. GEORGE MILLER: Right.

17 DR. MARK MILLER: -- but we've been on record for  
18 that. And then most recently, in this report, we said, over  
19 time, if you can measure these differences, then there's an  
20 argument for making a differential payment. So I think  
21 we're pretty much on record for this. I mean, we can  
22 certainly -- and I think, now that I'm thinking about it, we

1 do kind of pause in the draft of this report and say,  
2 remember where we've been. We can certainly repeat that,  
3 and I think it's even in --

4 MR. GEORGE MILLER: I think someone brought that  
5 up earlier. We might want to quote our previous  
6 recommendations. That may not be a bad idea.

7 MR. HACKBARTH: We could even bring -- in the  
8 March report we've used the box that summarizes past MA  
9 payment recommendations. We could even bring that in.

10 DR. MARK MILLER: So we could pull that in --

11 MR. HACKBARTH: Yes. So you're supportive of the  
12 recommendations, George, or --

13 MR. GEORGE MILLER: I agree with Bob on the lab  
14 issue. Generally, I am, but the lab issue, I think, has a  
15 structural problem about getting that information from  
16 physicians prior to EHR.

17 MR. HACKBARTH: Okay.

18 MR. GEORGE MILLER: So I agree with Bob.

19 DR. CHERNEW: I'm also probably pretty close to  
20 where Bob is. I'm supportive of the recommendations, but  
21 I'm not yet at Arnie's level of enthusiasm, though I  
22 appreciate it. It gives me hope.

1 [Laughter.]

2 DR. CHERNEW: As an economist, you need hope.

3 I have three concerns about the recommendations,  
4 loosely. The first one is the one that Peter raised at the  
5 very beginning which has to do with cost. I don't know  
6 enough about these to be able to say that the costs are a  
7 big issue or that there's ways of making it cheaper. I  
8 simply don't know. But, for example, if you are asking  
9 folks to replicate HEDIS depending on what the geographic  
10 area is, it could be implemented in a way that's more or  
11 less costly, and I would tend to try and advocate the less  
12 costly way, provided we thought we could get the information  
13 to achieve our base goals, recognizing that there will be  
14 some goals that we might have to give up in exchange. And I  
15 actually think the beneficiary using to compare stuff is  
16 less important than some of the other big policies, which  
17 is, I think, what Nancy said. So that is my concern one, is  
18 the cost.

19 Related, there are some design issues about these  
20 recommendations which are a little vague, but I think are  
21 important to get on the record. The first one is there's  
22 always -- in the design question, there's always these

1 sensitivity and specificity issues about how precise do we  
2 want the measures to be versus how narrow they are. So, for  
3 example, a bigger sample size works great, but it's  
4 expensive. So bigger markets can help you do that, but that  
5 doesn't give you the exact detail that you always want. So  
6 I would probably err on the side of somewhat bigger markets.  
7 Maybe the payment markets are big enough, and that's fine.  
8 I don't know the details.

9           And in terms of the reporting thresholds, I would  
10 tend to keep the reporting thresholds that they are now  
11 because I would worry about instability over time. If you  
12 have reporting of, say, 20 percent or whatever it is, at a  
13 point in time -- actually, I'm fine with that. I think  
14 Arnie correctly characterized my position.

15           But what I would worry about over time is if you  
16 allow it to report differences at a point in time, you'll  
17 see a lot of bouncing around over time and I fear what that  
18 will do is say something -- you know, you do this for years,  
19 the credibility estimates will really drop. If someone  
20 says, I just joined an MA plan. They were really good. Oh,  
21 no, wait a minute. Now they're not so good. Oh, wait. No,  
22 they're good again. And the data is always two or three

1 years lagged anyway. And so I think you have to do this in  
2 a way to hope that you can get stability and deal with  
3 having --

4 MR. HACKBARTH: Arnie could give you more hope.

5 DR. CHERNEW: I know. I will pause to let Arnie  
6 intervene.

7 DR. MILSTEIN: Michael is exactly right. The  
8 downside would be more instability, but there is an upside  
9 having to do with impact on the suppliers, whether they're  
10 plans or providers, of having customers that more often have  
11 value differentiators and therefore investing more in it. I  
12 mean, one of the reasons that, I mean, it's very unlikely  
13 that anybody ever used the HOS survey to choose a plan  
14 because it's set at the 0.05 level. Not all the plans were  
15 the same virtually. I think Michael is right, but there are  
16 offsetting considerations.

17 DR. CHERNEW: And another offsetting, of course,  
18 is various aspects of gaming that happens, depending on how  
19 you set up -- you know, they only focus on just these  
20 measures.

21 So I think we need some thought and so a little  
22 bit of caution, I think, is there, but I'm generally

1 supportive of the idea of more information.

2           My third concern relates to sort of systematic  
3 differences across groups that we don't measure well, which  
4 folks haven't discussed very much. There are two types that  
5 I worry about. One is case mix adjustment, which I think  
6 could be important, but I include in case mix adjustment not  
7 just clinical things, but socio-demographic things and other  
8 assorted things that I think it's important to at least be  
9 aware of. And so depending on the way in which you're doing  
10 the analysis, we just need to think about whether that's a  
11 bigger deal or not. I actually think across MA plans, it's  
12 not quite as big a deal because the MA plans on average have  
13 similar populations, although people might tell me that  
14 that's wrong. It's not an area that I've looked at very  
15 much. But I worry a bit about case mix adjustment things.

16           I also worry about an issue that Carlos mentioned  
17 just very briefly, which is many of these measures are  
18 actually -- Nancy said that they're measuring what your  
19 provider is doing, which is true, but they're also measuring  
20 what you're doing, many of these, and so if you were someone  
21 who was so enlightened to care about the cancer screening  
22 rates between MA and fee-for-service, that person is

1 probably going to get cancer screening in any of the  
2 systems, although maybe not. I do think the systems matter  
3 for that case.

4 But things like supplemental benefits and other  
5 things matter a lot in that area, and so I actually think  
6 that this is more useful right now, or I could see it being  
7 more useful more quickly in reporting to CMS about broad  
8 questions, even in feeding back to plans and providers about  
9 how they're doing. But I just -- the bottom line is, I'm  
10 supportive. I'm closer to Bob's level of support.

11 MR. HACKBARTH: Let me just pick up on this for a  
12 second, Ron. So broadly speaking, we've heard about two,  
13 maybe three different types of use of this information. One  
14 would be to guide beneficiary choice. A second would be to  
15 guide bonus payments for quality. And then the third would  
16 be sort of analytic purposes, examining differences.

17 What I've heard from at least some members of the  
18 Commission is some uneasiness about the utility for number  
19 one, guiding beneficiary choice. Some in favor, but a  
20 number of people fearing that's not going to be all that  
21 useful for that purpose. And so we'll think some more about  
22 that.

1           The first point I think you raised, Mike, was  
2 about the geographic units, and I want to come back. If, in  
3 fact, a principal purpose of this is to guide bonus payments  
4 to plans, it seems to me you really then want to match this  
5 to the payment areas.

6           DR. CHERNEW: And if you get the bonus a little  
7 bit wrong --

8           MR. HACKBARTH: Yes. And so in terms of the  
9 geographic unit -- I'm sorry to be pounding on this, but I  
10 really think we ought to get away from the vague language  
11 and say that we want to sync this up for bonus payment with  
12 the payment areas previously recommended by MedPAC. I think  
13 that really makes a lot of sense.

14          MR. ZARABOZO: Just to help Mike, we did -- I  
15 mean, in terms of what we said about the geographic unit, it  
16 was MSAs, but you would not split up a State, and then the  
17 non-MSA areas would be grouped into the Health Service  
18 Areas, of which there were 417 -- is that the number? The  
19 HSA is 417? Anyway, they're geographic units determined by  
20 patterns of care. So they're relatively large areas, in  
21 other words.

22          DR. CHERNEW: I think I could convince you, if



1 you're interested in bonuses, that you could relatively  
2 reasonably analytically have a plan-specific bonus that  
3 allows you to look at the full spectrum of that plan's data  
4 as opposed to have to cut it down into specific areas, if  
5 that was your only goal. So it would be related to payment  
6 areas at some level, but it also would take all of the data.  
7 So this issue that they have some plan that has people that  
8 are too small an observation -- too few observations in an  
9 HSA, you don't want to throw those people out for the  
10 purposes of bonuses. You could look at that plan  
11 individually, because you want to do bonus for the plan  
12 specific thing. So I think analytically we could have a  
13 discussion about how to do that.

14 MR. HACKBARTH: Okay. Ron?

15 DR. CASTELLANOS: Well, first of all, I think you  
16 guys did a great job on this. I've been watching this for  
17 the last year and a half and you really have done a yeoman's  
18 task and I really appreciate what you've done. It's been  
19 fun watching this evolving from nothing to what it is today.

20 That being said, we certainly understand why we're  
21 doing it, because it was a MIPPA requirement. I'd like to  
22 talk a little bit about the beneficiary or the patient and

1 then the provider. I think Mitra hit it on the head. What  
2 are the beneficiaries going to look at? What's in it for  
3 me? They're going to look at it for cost. And a question  
4 that I'm asked an awful lot is, Doc, are you in the plan,  
5 because if you're not in the plan, I'm not going to join it.  
6 I hear that a lot in MA plans. I don't, obviously, not in  
7 fee-for-service. But I think that's a consideration.

8           How about the provider? Well, I think on the MA  
9 side, I think the MA plans have a hammer. I'm not going to  
10 pay you unless you do what I ask you to do.

11           On the fee-for-service side, I know Arnie  
12 suggested that we ought to drill down on the physicians and  
13 get them to do this. You know, this again is an unfunded  
14 mandate. I don't have any choice. I have a 60-plus percent  
15 Medicare practice. So I really don't have a choice. But  
16 there are a lot of places in the country, especially in  
17 urology, in Denver, for one reason, have less than a ten  
18 percent choice. You know, the hassle factor is becoming a  
19 real concern in the medical profession and I suspect that  
20 there's going to be some people, not just in urology but in  
21 other fields, that are going to say, you know, I don't need  
22 to do this anymore, and that's going to be a problem perhaps

1 with access.

2 I don't know what the real -- I think there are  
3 some significant benefits for the patient, because we're  
4 going to be able to see which are the best plans or the  
5 quality issues. But from an unfunded mandate, and then  
6 we're going to be talking very quickly later on this  
7 afternoon about ancillaries and excess money being made  
8 there, I'm afraid that this is going to be a significant --  
9 may be a significant problem.

10 EHR, you know, that's only about 20 percent of the  
11 physicians are using that now. It's an expense, but not  
12 only expense but a very, very steep learning curve. I'm not  
13 sure how beneficial -- we have electronic medical records.  
14 I'm really not sure how beneficial it is to my practice.  
15 Thank you.

16 MR. HACKBARTH: Are there particular things, Ron,  
17 that you would like to see changed?

18 DR. CASTELLANOS: Yes. The one thing I'd like is  
19 the same thing Bob said, is the hassle factor. I'd like to  
20 get that out. And the big one there is the lab studies and  
21 reporting them. It's going to be an onerous obligation,  
22 both to the people with electronic medical records and not.

1 I support, in theory, in an ideal world, I really like what  
2 we've done. In a practical world where we live, the hassle  
3 factor is what bothers me on the provider side.

4 DR. STUART: I strongly support these  
5 recommendations. I'm not sure whose camp that puts me in,  
6 maybe Bill's. I mean, these are data that we've needed for  
7 a long, long time, and this is actually a unique opportunity  
8 for us because this is a Congressionally-mandated study.  
9 It's not just something that we kind of ginned up and said,  
10 oh, this is important. We were asked to do this and we're  
11 responding and so I think we owe it to ourselves to do a  
12 strong sell on this.

13 I think the differentiation between users is a  
14 little misdirected, in some sense, because I agree with  
15 Mitra that it's unlikely that most beneficiaries are going  
16 to go through this at 75 or 95 or whatever it evolves to  
17 different kinds of measures. I never thought in reading the  
18 chapter that this is how that information would be used  
19 anyway. I always thought that it would be used by CMS in  
20 the star system so that there would be some way of  
21 aggregating this information in meaningful ways. But unless  
22 you get it at the granular level, you can't do that.

1           And so I think that's a -- I think it's very  
2 important and I think that it will have positive impacts on  
3 beneficiaries, not just through their choice of whether to  
4 stay in fee-for-service or go to a particular plan, but it  
5 will also have an impact on the plans because of bonuses or  
6 because of using this. If you've got one star rather than  
7 four stars and you want to stay in this market, then you're  
8 going to have to change your behavior. So I think that this  
9 is very beneficiary-centric, even though it might not look  
10 like that at the granular level.

11           I do want to go back to a point that was raised by  
12 John, however. If we go through all of these  
13 recommendations, there's only one that mentions 2011 and  
14 that's recommendation three, and I think that the reason  
15 that it's in there is because that's what we were told to do  
16 in terms of the study date.

17           The reason I'm looking at John is that I'm, if I  
18 heard you right, I think you were telling us that we can't  
19 do this by 2011. So I'm worried about knowing that --  
20 supporting something that we know in our heart of hearts is  
21 not going to happen, but recognizing that this was the  
22 mandate of the study that asked us what could be done by

1 2011. And so I guess I would say if we really don't believe  
2 it could be done by 2011, even if the appropriations for HHS  
3 were available on time, which they're not going to be, then  
4 maybe we should just back off and say -- use your language  
5 and say, well, we really don't think we can do this by 2011  
6 as opposed to having that artifact.

7           And then, finally, I really agree with Arnie's  
8 point about having dial-up. I teach an advanced methods  
9 course, and when we get to this P equal 05, I say, there's  
10 no science in P equal 05. That's religion.

11           [Laughter.]

12           DR. STUART: And religion may be important, but  
13 it's not scientific. So being able to make distinctions on  
14 something other than P-05 is going to be really important.  
15 It's going to decide. Well, let's say that we did P-01.  
16 That's going to mean that we may not have to aggregate over  
17 time, which comes with its own problems.

18           So I'd like to think about that a little bit in  
19 terms of how we use this information. But, of course, that  
20 only becomes relevant if this thing is in place, so that  
21 comes back to my first point, to say that it's time. This  
22 is something that we've got to do.

1           MR. HACKBARTH: On this slide, what I heard you  
2 say, John, was it was bullet two that you thought was not  
3 feasible by 2011, or --

4           MR. BERTKO: No. No, I said both. Bruce heard me  
5 correctly, because I was kind of counting down, and Herb  
6 here can maybe make a better comment, but the money's got to  
7 come first, so presumably that's a 2010 appropriation. Then  
8 there are contracting rules, which I don't know much about,  
9 but I presume those would take three to six months. And  
10 then there are the actual getting the vendor and collecting  
11 the data.

12           So I would say it's not impossible to do bullet  
13 one, but it's near impossible and it's more likely that it  
14 would slip. I mean, I'm just guessing here now

15           MR. HACKBARTH: Herb, maybe you can help us out.  
16 I haven't followed this at one percent of the intensity that  
17 John has, but my impression was that CMS had begun planning  
18 to collect these data and it's not like they're at a dead  
19 stop.

20           MR. KUHN: Yes, and Carlos, you can help me. I  
21 think these are the line codes that they would get for lab  
22 values. I mean, they have begun the process of thinking

1 about how they would go implementing, so there is already  
2 some of the work that's already run up to it.

3           So, I mean, if we believe in stretch goals, I  
4 think we need to push pretty hard on this as we go forward.  
5 But, you know, the process on those line codes has already  
6 started. They've talked about it for years already. So  
7 this is not unknown to them in terms of the process they'd  
8 have to follow. It's just going through all the steps to  
9 make it happen.

10           MR. RICHARDSON: Could I just clarify?

11           MR. HACKBARTH: Can I ask -- excuse me for just a  
12 second, John. So what I'm trying to focus on, Herb, is  
13 bullet one as opposed to the lab values. I thought that CMS  
14 had announced at some point in the last, you know, six or 12  
15 months that, yes, they're going to collect encounter data  
16 from MA plans --

17           MR. RICHARDSON: Right, but those data are not  
18 needed to calculate the measures that are referred to in the  
19 first bullet. Those would be already collected on an MA  
20 from HEDIS --

21           MR. HACKBARTH: Okay.

22           MR. RICHARDSON: But I would like to make a



1 comment about the fee-for-service side of that, which is  
2 that I think what John is raising is a concern whether CMS,  
3 which solely would be responsible for doing this, would have  
4 the resources to be able to do these, in some ways, of  
5 looking at the most simple administrative data only HEDIS  
6 measures by 2011, even at the geographic unit level that  
7 we're contemplating. I think to a large extent here, it's  
8 an IT issue in terms of the computing power and the  
9 resources to be able to do it, because, just to say for the  
10 sake of argument, they already have the claims data that  
11 they need in most cases. But then it's writing the programs  
12 to say, here are the specifications for these particular  
13 measures. We need to include these people and exclude those  
14 people based on diagnosis code, et cetera, et cetera, and  
15 then produce the results for some several hundred, let's  
16 say, geographic units.

17           And I think I would respectfully disagree about  
18 the feasibility of that. I think that CMS may, but  
19 ultimately they would probably be the best judges about  
20 whether they could do that with their current resources or  
21 how much more they would need or moving parts around.

22           MR. KUHN: It would take additional resources, but

1 there is a standard procedure they go through in terms of  
2 the change requests, the writing the new programming, the  
3 testing the systems, to get all the information out to the  
4 providers and others out there. So that's rather  
5 routinized. But it does take time and it does take  
6 resources.

7 MR. ZARABOZO: And this GEM project that we talk  
8 about is essentially -- that's what bullet one is, which is  
9 the computation in fee-for-service of the HEDIS measures,  
10 and they did ZIP code-level numbers, so it has been done.  
11 It could be done again using the QIO.

12 DR. STUART: When do we have to make the final  
13 vote on this?

14 DR. MARK MILLER: We are shooting for the next  
15 meeting.

16 DR. STUART: The next meeting? Has anybody talked  
17 to CMS about --

18 DR. MARK MILLER: Daily.

19 [Laughter.]

20 DR. STUART: Daily, okay. I take that back. It  
21 was a question about what CMS is telling you about this,  
22 whether --

1 DR. MARK MILLER: We can go through additional  
2 rounds and sort of sharpening up on the basis of these  
3 questions. We certainly heard issues raised about the lab  
4 values in this conversation, and go back through this with  
5 CMS.

6 It is a little bit awkward. I mean, the mandate  
7 says, tell us by 2011 what we can do. We can be much more  
8 careful in this report. I mean, we are making a big deal  
9 about the resources, and I think everybody agrees with that,  
10 and we can be much more clear in the report that says, you  
11 know, this is feasible, but unless it starts now, it's not  
12 going to make it, that --

13 MR. BERTKO: And I defer to Herb here. If it is  
14 most of the way along the way and there is only a small  
15 increment of resources, sure, that tips it in favor of  
16 getting done. But if it's a larger thing, I mean, these  
17 guys are stretched already.

18 MR. HACKBARTH: Jay? Karen, did you have your  
19 hand up? Do you want to leap in here? In fact, I'd like to  
20 know whether there's anything here that gives you pause, and  
21 I think Tom, as well, hasn't said anything. And Herb, I  
22 don't think you've said anything overall about the

1 recommendations. So I'd like to hear from each of you  
2 quickly, and then let Jay go.

3 DR. BORMAN: I'm impressed with the work that it's  
4 taken to get us here. My concerns would settle around the  
5 lab data and the medical record extraction in terms of  
6 putting burden on providers before they have the electronic  
7 tools to readily do that. I personally believe that the  
8 whole health IT initiative is one of the real tools that we  
9 have that by itself will, in a sustainable, self-propelling  
10 way, transform health care in the way that we want it to go.

11 I would not want us to do anything that casts a  
12 bad light for the physician office about embracing health  
13 IT. It puts that goal at risk over the long term, because  
14 once everybody has a truly interoperable, uniform health IT  
15 to access, then when somebody comes to my office and says  
16 they had a test yesterday, I know I can get the result of  
17 it. I don't have to reorder it in order to make a care  
18 decision today.

19 I think over the long term, that has huge  
20 potential value to change the way we practice without doing  
21 anything else, without getting into touchy areas with  
22 people, without trying to force people to do things, and I'm

1 just a little concerned that this lab value piece in  
2 particular puts that longer-range goal at risk. Otherwise,  
3 I think they're reasonable.

4 DR. DEAN: I'm generally supportive of all the  
5 recommendations. I mean, I have the same hesitation about  
6 the burden on small offices. We get a number of those  
7 requests from insurance companies. Every insurance company  
8 wants to do their medical management thing and they want lab  
9 data and it's a real headache. Nonetheless, it's obviously  
10 important data and I think it's important to let the word  
11 get out that this is going to be a requirement and that --  
12 but I think we shouldn't push it too hard or too rapidly.

13 And I guess just finally, I would say I have some  
14 degree of skepticism about how many beneficiaries are going  
15 to directly use this data, although as Herb mentioned, the  
16 SHIP programs, I think, have been very helpful in our area  
17 and those folks know how to use this data. I think the  
18 average beneficiary is going to be a little intimidated by  
19 it, and I think my experience is they really don't use that  
20 kind of data very much. But if there's an intermediary that  
21 understands how to use the data and what it means, it  
22 probably would be useful.

1           MR. KUHN: I, too, am pretty supportive of all the  
2 recommendations. I think it's a good, comprehensive listing  
3 that gives us a good stake in the ground for moving forward  
4 in this direction of the real head-to-head comparison  
5 between fee-for-service and MA and trying to derive some  
6 value there.

7           I'm like Bob, though, and others have said this  
8 already, but CMS is starved for resources across the board,  
9 and so the fact that we have enunciated on each and every  
10 one of these and have a separate recommendation,  
11 recommendation number eight, that talks about resource  
12 needs, I think that's just wonderful and needs to be there.

13           And as we talk about this, again, I think, Glenn,  
14 you're right in terms of guiding beneficiaries' bonus  
15 payments and ultimately analytical purposes. All of these  
16 are going to be very valuable. But the issue here is that,  
17 as we've seen over time, when these are rolled up into  
18 composite measures or they're rolled up ultimately into the  
19 five-star rating system, which I suspect this is where this  
20 information will ultimately wind up, it does really -- the  
21 providers, nobody wants to be a one-star or two-star and  
22 they will use this information. They will drive performance

1 improvement in ways that I think will get us far greater  
2 advancements with the resources that are expended here. So  
3 this is valuable information.

4 DR. CROSSON: Well, I support the recommendations.  
5 I have a small part of me that's leaning towards Bob over  
6 here, because I do think that some of the recommendations  
7 represent temporary but necessary accommodation, not only to  
8 the request from Congress, but also to the fact that some of  
9 the current legislation anticipates bonuses which are based  
10 on successively each of these comparisons. Therefore, there  
11 has to be some basis to do that.

12 I do think, though, in the end, that anything that  
13 can be done to kind of move up the tipping point of the  
14 implementation of electronic medical records is going to  
15 make it -- I mean, it's a quantum change, an order of  
16 magnitude or more in terms of availability and cost of  
17 stuff. So that's sort of where I am.

18 I was listening to the commentary and trying to  
19 put what folks said into three different areas. One would  
20 be just general perspective. Other comments were, although  
21 they weren't always explicit, you know, could we please  
22 change the text to emphasize something a little bit more or

1 less than what had been emphasized.

2 And then I thought I heard four sort of a little  
3 bit more specific, could we just change this thing, and I  
4 thought -- well, I don't know if you want to discuss any of  
5 those, that they might be things that the staff could come  
6 back at the next meeting with a recommendation and say --

7 MR. HACKBARTH: Why don't you just quickly --

8 DR. CROSSON: -- here's how we address them. One  
9 was the one that Glenn brought up himself, which is to  
10 change the term "appropriate geographic unit" in  
11 recommendation one to something more reflective of the  
12 previous payment unit recommendation.

13 The second one was I heard Nancy say, I thought,  
14 that she would like to see recommendation two altered to  
15 make a recommendation which is to expand the use of HOS  
16 contingent on some feasibility assessment by CMS. At least,  
17 I thought I heard a specific --

18 DR. KANE: [Off microphone] Both feasibility and  
19 then it produces meaningful --

20 DR. CROSSON: Feasibility as a useful measurement,  
21 yes.

22 And then number seven, I thought I heard Bill say,



1 do we want to consider removing demographic data from the  
2 recommendation of information to be contained within the EMR  
3 recommendation. We didn't have much of a discussion on  
4 that, but perhaps we could come back at the next meeting and  
5 talk about that one.

6           And then the last one, which I heard in one form  
7 or the other from George, Bob, Mike, Ron, Karen, and Tom,  
8 was the question of do we really want to include this lab  
9 data thing, and I think it may be that it's going to be hard  
10 to bring any more facts to bear on that question, but I  
11 think that one also probably deserves some more discussion.

12           MR. HACKBARTH: Thank you, Carlos and John. More  
13 about this next time.

14           Our next session is on pricing services in  
15 Medicare's fee schedule.

16           DR. HAYES: Good afternoon. Our topic for this  
17 afternoon is pricing services in the physician fee schedule.

18           Just to get our bearings, recall that Medicare's  
19 physician fee schedule includes relative value units or RVUs  
20 that are intended to account for the relative costliness of  
21 three types of inputs that go into furnishing physician  
22 services. Those inputs are:

1           Physician work, that would be the time and effort  
2 that physicians put into furnishing services;

3           Practice expense, which includes things like wages  
4 paid to non-physician personnel working for physicians,  
5 other items such as rent, utilities, equipment, supplies, a  
6 few other things;

7           And, the third category of inputs would be  
8 professional liability insurance.

9           During this session, we will focus on the RVUs for  
10 physician work and practice expense. Together, they account  
11 for about 96 percent of payments under the physician fee  
12 schedule.

13           The overall policy question for this session is  
14 whether the RVUs are accurate and equitable. While relevant  
15 to all services, the question is particularly relevant to  
16 physician services because of the critical role that  
17 physicians play in the health care system and the concern in  
18 accurate payments can affect patterns of care.

19           The Commission has expressed the concern many  
20 times that unless prices are accurate, there is a danger  
21 that behavioral change in the practice patterns will become  
22 skewed.

1           Payment accuracy has implications for volume  
2 growth also. As you know, the volume of physician services  
3 has continued to grow. This slide shows a mini version of a  
4 graphic you've seen a number of times before. It shows the  
5 relatively low growth in the volume of evaluation and  
6 management services and major procedures but much higher  
7 growth in other procedures, tests and imaging.

8           Another reason to consider pricing of physician  
9 services has to do with the fact that the issue right now is  
10 timely. In November, CMS will request public comments on  
11 services in the fee schedule that may be misvalued. The  
12 Agency issues such a request every five years to begin a  
13 process known as the five-year review.

14           In 2006, the Commission made recommendations from  
15 a process standpoint on how CMS might improve the five-year  
16 review. Briefly, and I'm just going to run through this, we  
17 recommended that the Secretary establish an expert panel to  
18 give advice on services that may be overvalued; that the  
19 panel should have expertise in health economics, physician  
20 payment in addition to clinical expertise; that the  
21 Secretary should use claims and other data to identify  
22 services that may be overvalued because of volume growth or

1 other factors; and that the Secretary should review all  
2 services periodically.

3           We left on your chair a handout after lunch that  
4 has at the top of it, Chapter 3 and March, 2006 in the lower  
5 right corner. If you want to look in more detail at what  
6 those recommendations were about and some other  
7 recommendations the Commission has made about pricing,  
8 you'll find them there.

9           Anyway, so with the next five-year review about to  
10 start, perhaps these recommendations would bear revisiting.

11           Separately, a recent report for the Department of  
12 Health and Human Services offers evidence to reinforce the  
13 Commission's concern that the pricing of physician services  
14 can affect expenditure patterns. In a study of 10 high-  
15 growth services, payment was a significant factor in the  
16 growth of most of the services. For instance, in the case  
17 of polysomnography services, services known as sleep  
18 studies, the combination of payment levels and features of  
19 the billing codes for these services appears to have driven  
20 practice patterns in the direction of diagnosis of sleep  
21 disorders but less so in the direction of comprehensive care  
22 for the disorders as a chronic condition.

1           Finally, on this point of timeliness, let me just  
2 remind you that this issue of pricing of physician services  
3 came up during your planning meeting in July. There was  
4 interest then in taking up these issues during the current  
5 report cycle.

6           So, at this meeting, staff are seeking answers to  
7 two questions: first, whether you believe that we should  
8 revisit the pricing of physician services during this report  
9 cycle and, second, if that is the case, which issues in  
10 particular should we address.

11           Several pricing issues are discussed in the  
12 mailing materials for this session, and they are listed  
13 here: accuracy of estimates used to determine the fee  
14 schedule's work RVUs, physician work and whether it's  
15 defined broadly enough, accuracy of the fee schedule's RVUs  
16 for practice expense and, finally, pricing services  
17 furnished together during multi-service patient encounters.

18           If you choose to address these issues, it would  
19 not be to the exclusion of other work. The form of the  
20 delivery system remains important, of course, including work  
21 on options such as accountable care organizations that might  
22 move payment policy away from fee-for-service. In the

1 meantime, though, fee-for-service continues, and it's  
2 important for prices to be accurate in that part of the  
3 payment system.

4           Let's look now at the first issue, which is the  
5 accuracy of payments for physician work. For the fee  
6 schedule, physician work is defined as time and intensity.  
7 It's the time that a physician spends furnishing a service,  
8 and it's the intensity of effort per unit of time.

9           Focusing first on physician time, note that in  
10 determining the fee schedule's work RVUs, CMS has a time  
11 estimate for each service. These estimates come from two  
12 sources -- research conducted by William Hsiao and his  
13 colleagues at Harvard, that was in the 1980s, and then, more  
14 recently, a panel of clinical experts has provided estimates  
15 to CMS. This is a panel known as the American Medical  
16 Association and Specialty Society Relative Value Scale  
17 Update Committee, also known as the RUC.

18           To get some perspective on these estimates, note  
19 that they tend to vary by type of service. For instance,  
20 among broad categories of services, major procedures take  
21 the most time, an average of 188 minutes. That includes  
22 both the procedure, well, the procedure itself plus any pre-

1 and post-operative visits. Imaging services have some of  
2 the shortest times, on average, 14 minutes for the category.

3 A change in the time estimate for a service can  
4 lead to a change in the RVUs. The correlation between time  
5 and work RVUs is very high. Recalling that correlation  
6 coefficient can have a maximum value of 1.0, the coefficient  
7 for the relationship between time and work RVUs is almost 1;  
8 it's 0.9.

9 Questions about the time estimates have come from  
10 the comparison of the estimates with data from other  
11 sources. For instance, the physician time estimate for a  
12 colonoscopy is 30 minutes. However, published research on  
13 use of screening colonoscopy includes a much shorter  
14 estimate, 13.5 minutes. More broadly, research for CMS  
15 suggests that over-estimates of physician time may be a  
16 problem that applies to a number of services and not just  
17 limited to an isolated procedure such as colonoscopy.

18 For this report cycle, the Commission, while not  
19 determining RVUs, could consider the validity of the time  
20 estimates. This work could include review of research,  
21 literature and government reports. It could include the  
22 investigation of the availability of secondary data sources

1 and comparing those data to the time estimates that CMS has.  
2 We could also investigate the availability of data or  
3 approaches to collecting data that could be used as a  
4 substitute for the time estimates.

5           Now what about the other part of the definition of  
6 physician work, intensity? While time is directly  
7 observable, intensity, the difficulty of physician work per  
8 unit of time, that's more of a judgment call. For the fee  
9 schedule, intensity is defined to include three  
10 characteristics: first, mental effort and judgment; second,  
11 technical skill and physical effort; and, third, stress.

12           The question here is whether this definition is  
13 leading to payments that are fair, payments that are  
14 equitable. To address this question, we need to see how  
15 much intensity of effort is included in the payment for each  
16 service. For that, we can use the fee schedule's work RVUs,  
17 its physician time estimates and its dollar conversion  
18 factor. With these numbers, we can calculate compensation  
19 per hour which is just a way of looking at intensity in  
20 dollar terms.

21           It turns out that because of the work RVUs  
22 assigned to services, the fee schedule establishes



1 considerable differences in physician compensation per  
2 hours. The range of those differences is shown in a table  
3 that was included in your mailing materials, that shows  
4 compensation per hour by type of service. For this slide,  
5 we extracted several examples from that broader analysis.

6 I won't go through each of these examples, but  
7 let's just walk through one of them here. So, for an  
8 electrocardiogram, compensation per hour is \$53 or 61  
9 percent of the rate for an office visit.

10 We're using, in this case, office visit as a  
11 comparator because that's the most frequently billed service  
12 in the fee schedule. Then you can see below that the  
13 compensation per hour for the office visit itself is \$87,  
14 and so on. I've got a couple of other examples there.

15 Looking at such differences, we can question  
16 whether the valuation process is fairly compensating  
17 physicians. Is the process producing an equitable outcome?  
18 For example, some might argue that the physician work  
19 accompanying an office visit is every bit as intense as the  
20 physician work that goes into interpreting a CT scan. Yet,  
21 as we see here, evaluation of a CT scan is more than 1.5  
22 times that of an office visit.

1           Or, take the electrocardiogram. Yes, the  
2           compensation per hour for that service is less than an  
3           office visit. Still, it is fully 61 percent of the visit  
4           rate.

5           To make all of this a bit more vivid, we wanted to  
6           have an example, and some of you will recall a discussion  
7           that the Commission had previously on these matters, and  
8           I'll ask Tom's indulgence here. At the October meeting, two  
9           years ago, Tom made the point that the complexity he  
10          encounters as a primary care physician is very different  
11          from that of a proceduralist. The point was that in primary  
12          care it is often the case that the patient is someone who is  
13          elderly, who has maybe three or four diseases, limited  
14          income, no family. In such circumstances, the complexity  
15          comes in evaluating the needs of that patient, in  
16          constructing the care plan and in doing so in a way that  
17          achieves the best outcome.

18          Perhaps another way to look at this is to think  
19          about medical students and their decision of whether to  
20          practice as a generalist in primary care or, say, general  
21          surgery. In surveys, the medical students identify  
22          important considerations -- factors such as predictability

1 of work hours and control of a lifestyle. Perhaps the  
2 valuation of physician work should include some of these  
3 factors.

4           Just to conclude here, before I hand things off to  
5 Ariel and we go to several other issues, you have talked  
6 from time to time and, indeed, have expressed some  
7 frustration about the need for Medicare to pay in some way  
8 for the value of services. The difficulty here is  
9 quantifying value in the absence of better information on  
10 comparative effectiveness. So that's one possible  
11 destination, but we would need your guidance on how you  
12 would like to proceed.

13           Another place to go would be to focus on process.  
14 In 2006, you made the recommendations about improving the  
15 five-year review. With another review about to start,  
16 perhaps it's time to revisit those recommendations.

17           Yet another option is to expand the question, to  
18 go from the process questions you considered in 2006 and  
19 perhaps focus more on the mechanics, if you will, of how  
20 services are valued. That can include the specifics I  
21 talked about -- the time estimates and how the fee schedule  
22 accounts for intensity.

1           So there's a range of issues we can pursue here,  
2 and it's just a matter of saying which ones you would like  
3 to work on and where we can go with this.

4           So I'll turn things over to Ariel who will talk  
5 about some practice expense issues and some pricing of  
6 services furnished together.

7           MR. WINTER: Thank you.

8           Ensuring the accuracy of practice expense RVUs is  
9 important because, as Kevin showed on one of the first  
10 slides, they account for almost half of all payments under  
11 the fee schedule. It's worth pausing for a moment and  
12 noting the potential for interaction between physician work  
13 and practice expense. For example, an increase in practice  
14 expense for a service may reflect the substitution of non-  
15 physician staff or other inputs for physician work.

16           Practice expense includes two types of costs:  
17 direct costs which are non-physician clinical staff, medical  
18 equipment and medical supplies, and indirect costs which  
19 include administration staff, office rents and other  
20 expenses.

21           As you may recall, CMS uses data from surveys of  
22 physician specialties to calculate indirect costs. These

1 cost data currently come from different surveys and  
2 different time periods. For most specialties, the data  
3 reflect costs from the late 1990s. For 13 specialties,  
4 however, CMS uses cost data from supplemental surveys that  
5 were conducted between 2001 and 2006.

6 The Commission has expressed concern that using  
7 more recent practice cost information for some, but not all,  
8 specialties could cause distortions in relative payments.

9 For the 2010 physician fee schedule, CMS has  
10 proposed to use data from a new survey sponsored by the AMA  
11 and the specialty groups. Compared with the data that CMS  
12 currently uses, this new survey is a step forward because it  
13 provides more recent cost data, it measures costs of nearly  
14 all specialties and it uses a standard protocol for all  
15 specialty groups that is designed to derive and direct RVUs.

16 However, the Commission has asked CMS to provide  
17 more information about this survey's response rate and  
18 representativeness. We are concerned that CMS has not  
19 discussed its strategy to keep the specialty-specific cost  
20 data up to date in the future. One option that could be  
21 considered would be to require a sample of providers to  
22 submit cost data. Another option would be to consider

1 alternative ways to set indirect practice expense values  
2 that do not rely on specialty-specific cost data.

3           Now we'll talk about how Medicare pays for  
4 services often furnished together. CMS has developed a  
5 policy that accounts for efficiencies that occur when  
6 multiple surgical or multiple imaging services are provided  
7 during the same encounter. For example, when two or more  
8 surgical procedures are performed during the same operation,  
9 Medicare pays the full amount for the most expensive  
10 procedure but reduces payment for the other procedure by 50  
11 percent. Similarly, when a provider furnishes multiple  
12 imaging services on contiguous body parts during the same  
13 session, Medicare reduces the payment for the technical  
14 component of the subsequent services by 25 percent.

15           These reductions are based on the logic that total  
16 practice expenses are lower when two procedures are  
17 performed together than when they are performed  
18 independently. However, this policy has two limitations:  
19 First, it applies only to surgical and certain imaging  
20 services, and, second, it adjusts payment for practice  
21 expenses but does not adjust for any efficiencies that might  
22 occur in physician work.

1           In a recent report, GAO reviewed pairs of services  
2 that are commonly furnished together, but those payments are  
3 not reduced by the current policy, by CMS's current policy.  
4 For example, they looked at pairs of interventional  
5 radiology and pairs of physical therapy services.

6           Based on input they received from contractor  
7 medical directors, GAO concluded that efficiencies when many  
8 types of these services are provided together because some  
9 of the practice expenses are not duplicated, and GAO  
10 estimated that Medicare could save over \$500 million per  
11 year if the multiple procedure reduction were applied to  
12 these pairs of services. However, the AMA has raised  
13 objections to GAO's methodology and their conclusions.

14           The RUC has also been concerned about this issue,  
15 and it has formed a joint work group with the CPT Editorial  
16 Panel to examine services that are frequently billed  
17 together. Over the next two years, the CPT panel will be  
18 considering whether to combine 53 pairs of codes into fewer  
19 comprehensive codes, for example, CT of the pelvis and CT of  
20 the abdomen. If this occurs, the RUC would then value these  
21 new codes and forward the recommendations to CMS.

22           CMS has also recognized this issue. In this

1 year's proposed rule on the physician fee schedule, CMS  
2 noted that it has hired a contractor to analyze both  
3 physician work and practice expense inputs for services that  
4 are performed during the same encounter. CMS is also  
5 considering whether to expand the multiple procedure payment  
6 reduction or to bundle services together. At this point, it  
7 is uncertain whether these efforts will lead to changes in  
8 how Medicare pays for multiple services provided in the same  
9 encounter, and there may be an opportunity for the  
10 Commission to do its own research on this issue and provide  
11 guidance to CMS.

12           Now we'll mention some issues you may want to talk  
13 about in your discussion. First, should the Commission  
14 examine revisions to the physician fee schedule? If so, of  
15 the four issues that we've raised, which are the most  
16 important? Just to remind you, the four issues were the  
17 accuracy of physician work, how physician work is defined,  
18 the accuracy of practice expense and the pricing of services  
19 furnished together.

20           A related question is whether CMS has sufficient  
21 resources to undertake the kinds of changes we've talked  
22 about, and you may want to consider this as well.



1           Thank you.

2           MR. HACKBARTH: Thank you, Kevin and Ariel. It  
3 was an excellent job of framing some important issues. Let  
4 me expand the frame a little bit further.

5           So Kevin and Ariel have said within the existing  
6 structure here is a series of issues that we could look at  
7 on the work side and the practice expense side. From time  
8 to time, however, we've had commissioners say the problems  
9 with RBRVS are even more fundamental than that.

10           We've got a system that basically tries to  
11 estimate the input costs in producing a service -- the work  
12 and the practice expense and the professional liability  
13 expense -- and says the right price is based on how those  
14 inputs vary and does not consider the value to the patient  
15 or the value to society or shortages of particular types of  
16 providers. It's strictly focused on input costs. From time  
17 to time, we've had commissioners, Arnie, I think being one  
18 of them, saying this is not the right construct, that we  
19 ought to also be systematically trying to pay based on  
20 value, as one example.

21           Now the virtue of this framing of the issue, as  
22 Kevin and Ariel have just done it, is because it's working

1 within the existing construct. You can imagine getting a  
2 grip on this stuff, especially, for example, the accuracy of  
3 the time estimates. That's something you can really wrap  
4 your arms around. Broaden the frame to issues like value,  
5 and, boy, it's a much different sort of project, not just in  
6 terms of our effort but ultimately in terms of CMS's effort  
7 as well.

8           So, as we go around and people comment, one thing  
9 I'd your reactions to is how we deal with this. Do we focus  
10 narrowly and try to make some faster incremental  
11 improvements or do we try to broaden the frame? Or, you  
12 could do some combination of the two, I guess. You could do  
13 some staging of them. So that's a topic on which I'd like  
14 to hear people make comments.

15           So let's see hands for round one, clarifying  
16 questions.

17           DR. BORMAN: I'd just like to explore a comment  
18 that was made about the multiple procedures reduction. I  
19 would agree with you that a good bit of the assumption in  
20 the background is the economies of scale on practice  
21 expense. There probably is some economy of scale on some of  
22 the physician work. I don't think it translates as evenly.

1           But I think I heard you say or imply that the  
2 reduction that's applied is applied only to the practice  
3 expense, and I think it pretty much comes down to a 50  
4 percent reduction. It's not that you're maintaining my work  
5 and then only cutting by half, I do believe.

6           So help me to understand what I misunderstood.

7           MR. WINTER: My understanding was the entire  
8 payment for the second procedure is reduced by 50 percent.  
9 According to GAO's report, they found that that was to  
10 account for efficiencies in the practice expense portion  
11 only, but I'm not sure.

12          DR. BORMAN: If I could just share why I have a  
13 little concern about that, let me just give you an example  
14 from my own world. Let's say I have a patient with  
15 hemolytic anemia, destroys red blood cells, they develop  
16 gallstones and they need their spleen out. Okay?

17          I can do those two operations at the same time.  
18 Yes, I open the abdomen once. I close the abdomen once. So  
19 there is an economy of scale in my work.

20          But the considerations that I have to think about,  
21 about complications relative to the gall bladder part and  
22 the spleen part, are additive. They are not synergistic or

1 economies of scale. So I think that we have to be a little  
2 bit careful about the assumptions.

3 I would just say let's be clear. It's been  
4 reduced by half. You would get some potential disagreement  
5 that it all relates to the practice expense, saving, or  
6 mostly.

7 DR. STUART: Glenn asked a broad question about  
8 whether how important we think this is and whether it should  
9 be narrowly or broadly focused. I think it should be  
10 broadly focused, and I think it's an extraordinarily  
11 important set of questions.

12 And, I'll just ask a question that gives you some  
13 idea of another way that this might go, and that is you give  
14 us enough information here to question the way in which the  
15 two pieces are put together. The malpractice isn't very  
16 big, so you don't spend time on it. But it's all based upon  
17 certain information that comes directly from the providers  
18 themselves. My question is, well, how is this handled in  
19 the private sector?

20 In other words, you've got services that are over-  
21 valued and under-valued. How do they figure it out, and, if  
22 they do figure it out, is that something that we would want

1 to consider as a way to at least identify outliers within  
2 the system?

3 So you've got the system you'd still have to fix,  
4 the basic approach, but if it's really an outlier problem,  
5 then there may be a simpler way to identify these things.

6 MR. HACKBARTH: Your question, Bruce, was how do  
7 private payers set their relative values?

8 DR. STUART: [off microphone] Yes.

9 MR. HACKBARTH: I don't know if anybody has  
10 definitive data to offer on that

11 Kevin?

12 DR. HAYES: The AMA surveys private payers  
13 periodically, and, if memory serves, the last time they did  
14 so was in 2006. That was an update of a series of surveys  
15 that they conducted, and they asked questions about use of  
16 the RBRVS, of Medicare's relative values.

17 The finding, and here again I'm just going on  
18 memory, is that about I think it was close to 70 percent of  
19 -- now what is it? Is it payers or is it dollars? What?  
20 But let's say it's payers use the relative values.

21 There is some differences in terms of what they do  
22 with the conversion factor, as we know from our data that

1 the conversion factor, that something is lower. So we'd  
2 have to figure on the Medicare side. So we'd have to figure  
3 that, on average, private payers' conversion factors are  
4 higher.

5 The other thing that comes out in that work is  
6 that the private payers' conversion factors, that they use  
7 multiple conversion factors, that they might have a higher  
8 conversion factor for some specialty services than they do  
9 for, say, evaluation and management services.

10 So there are a lot of similarities.

11 DR. STUART: I could be accused of not staying  
12 within the question boundaries, but since you posed it,  
13 about the level of importance of this large issue I think we  
14 at least want to throw out the kinds of questions that would  
15 lead the staff to develop an agenda around this.

16 MR. HACKBARTH: Bob, did you have something to  
17 add?

18 DR. BERENSON: Yes, the Center for Studying Health  
19 System Change -- and Paul Ginsburg can talk more  
20 specifically about this tomorrow as part of the site visit  
21 process -- asks all the health plans how they set hospital  
22 and physician payment rates. In this area, it's very clear

1 that they all look at the Medicare RBRVS schedule and then  
2 have to deal with market conditions to see how they can  
3 implement it, but that they are not in general using  
4 techniques that are other than RBRVS.

5 DR. CROSSON: Just let me add another point. In  
6 the salaried environment, it's not terribly different  
7 because, as Bob noted, the Medicare RBRVS drives a certain  
8 level of compensation. It drives the plans, often, to use  
9 the same level of compensation which sets the market salary  
10 for physicians. When you're an organization having to  
11 recruit and retain physicians, you're often dealing with at  
12 least a strong reflection of that payment system.

13 MR. HACKBARTH: Okay. I assume responsibility for  
14 maybe getting us beyond the boundaries of round one, by  
15 posing my broad question. So let me try to get us focused  
16 on round one, clarifying questions, and then we go to round  
17 two and address my broader issue.

18 DR. CASTELLANOS: Ariel, maybe you could help me  
19 clarify this. You quote the GAO report. It's my  
20 understanding that data have not been released and have not  
21 been available to look at.

22 MR. WINTER: They have not released the pairs of

1 codes they looked at and the ones for which they identified  
2 efficiencies, they've not, nor have they released the  
3 specific percent reductions that they assumed for each pair  
4 of codes. They said, generally, they were about 25 percent  
5 based on the imaging reduction.

6 DR. CASTELLANOS: That would be nice to look at  
7 that. When that comes available, I would like to look at it  
8 too.

9 The other clarifying question I have is I really  
10 appreciate the data on, I guess, it's Table 1 on Page 4 that  
11 was in the material you sent out. I'm just asking, do you  
12 think the RVU data, this was 2009 data, is going to change  
13 based on some of the proposed changes in the physician  
14 payment rule, specifically eliminating the consults,  
15 specifically the equipment utilization rate and some of the  
16 new practice expense stuff? Do you think that's going to  
17 have much of an effect on the RVUs?

18 DR. HAYES: It would. Well, let's back up here  
19 and, for the group, point out that when Ron mentioned  
20 consults, the proposal from CMS is to essentially declare  
21 consultation services non-covered, in which case then  
22 physicians would use existing billing codes for office



1 visits and other things, to submit claims for consults.  
2 And, CMS is proposing to implement this policy in a budget-  
3 neutral way, we could say, which means that they would  
4 increase payments for the office visits to account for the  
5 shift of volume toward those visits, but otherwise maintain  
6 spending at a current level.

7           So that, in turn then, could result in some  
8 increase in the work RVUs for office visits and could have  
9 some effect on these results. It's too early to tell  
10 whether CMS will go forward with that proposal. It's a  
11 highly controversial one.

12           But, otherwise, the other proposals in the  
13 proposed rule would not have an effect on these numbers.  
14 I'm thinking here in particular about the use of new survey  
15 data to determine practice expense RVUs. That's because  
16 this analysis is limited to the work RVUs. Okay?

17           DR. CASTELLANOS: Okay, thank you.

18           DR. CHERNEW: I have a question about I guess it  
19 was the slide on page 4, where you said the second bullet  
20 point on the slide on page 4 was previous reviews led to far  
21 more increases than decreases when you looked at the RUC.

22           I was under the impression that the RUC had to

1 have budget-neutral changes to RVUs. Am I wrong about that?

2 DR. HAYES: No, you are exactly right. But what  
3 that means is that if RVUs go up for some services, okay,  
4 which is what's represented by the yellow bars on this  
5 slide, then that means that budget-neutrality adjustment  
6 applies to everything, to everything else in the fee  
7 schedule including the services that experience some  
8 increase.

9 DR. CHERNEW: So, when you said the previous  
10 reviews led to far more increases than decreases, there's  
11 actually not a budgetary impact of that, but it's just --

12 DR. HAYES: A redistribution of dollars among  
13 services.

14 DR. CHERNEW: My second and sort of related  
15 question was you said that the correlation between time and  
16 work RVUs was about 0.9.

17 DR. HAYES: Yes.

18 DR. CHERNEW: But when I looked at your slide and  
19 when I looked at the table on page 4, the differences in the  
20 compensation per hour are very different. Is that because  
21 something is going on somehow in practice expense or  
22 liability?

1           In other words, if I thought that it was really  
2 perfectly correlated between time and work RVUs and that  
3 there was a given dollar per RVU, there's something I'm  
4 missing. So my question is what am I missing?

5           DR. HAYES: Well, it doesn't have anything to do  
6 with practice expense and PLI. These values shown in Table  
7 1 on page 4 are just the work RVUs. All right?

8           DR. CHERNEW: I guess I'm so confused. I need  
9 like round zero which will have to be later.

10          DR. HAYES: Yes.

11          DR. CHERNEW: Because I don't understand how the  
12 time can be so correlated with the RVUs and the RVUs  
13 converted in a conversion factor, but then you don't get the  
14 same dollars per hour across the services.

15          MR. HACKBARTH: So there's a correlation between  
16 time and the overall work RVU. The analysis of compensation  
17 per hours says, okay, look at, we're trying to analyze the  
18 residual.

19          DR. HAYES: Exactly.

20          MR. HACKBARTH: And, our way of analyzing that  
21 residual, the piece that's intensity of effort, is to  
22 convert things into compensation per hour, implicit

1 compensation per hour. This is the implicit intensity  
2 measure.

3 DR. CROSSON: I had the same question. What  
4 you're doing is you're dividing by time. So it's intensity  
5 times time divided by time gives a relative intensity, which  
6 can be expressed as dollars per hour.

7 DR. CHERNEW: But the intensity has got to be a  
8 small amount if it's 90 percent correlated.

9 DR. STUART: [off microphone] No, it doesn't. It  
10 could be correlated.

11 In other words, if time and hourly compensation  
12 are correlated, or put it another way, if you ran the  
13 correlation between intensity and RVU, it's going to be more  
14 than 0.1 because my guess is that there's some positive  
15 correlation between intensity and time.

16 DR. HAYES: Yes, that's going to take some sorting  
17 out.

18 DR. BORMAN: First off, time is correlated with  
19 work RVU, very tightly, work RVU. And, work RVU is about 50  
20 percent-ish, 45-ish percent of the total RVU. Okay, so  
21 that's one thing. The tight correlation to time, the  
22 tightest correlation to time is to physician work.

1           There is some correlation of time to practice  
2 expense because the work value is a multiplier in the  
3 practice expense formula, one of several multipliers, but  
4 it's still a multiplier. So time is a factor less tightly  
5 linked in practice expense.

6           If you want to go back to the original Hsiao  
7 stuff, the two things that work correlated with was time and  
8 the setting in which the service was delivered. So that's  
9 the reason that there's these emergency room, da-da-da,  
10 whatever, codes.

11           So one of the other things operating in the  
12 background is the setting in which the thing is delivered.  
13 So that's just how it relates.

14           DR. SCANLON: My interpretation of this table was  
15 that we can have this phenomenon and have this tight  
16 correlation because we're talking about the correlation  
17 involving about 5,000 data points, and this is 4 data  
18 points. The four data points represent a potential problem  
19 that we might want to address, but it's not the 5,000.

20           If you plotted the 5,000, you would see the  
21 correlation. There's a little noise here, and this is the  
22 noise you're seeing.

1           MR. HACKBARTH: Okay. What I'd like to do is set  
2 this aside for right now. We've got an issue of  
3 presentation, Kevin, and we need to figure out a different  
4 way to present the data.

5           George, did you have your hand up?

6           MR. GEORGE MILLER: I did, but my clarifying I  
7 believe was answered, but I want to make absolutely sure.  
8 That is these numbers on the same Table 4, this is budget-  
9 neutral, and everything we're talking about is budget-  
10 neutral, on this slide?

11          MR. HACKBARTH: The change in the RVUs, yes.

12          MR. GEORGE MILLER: Okay, completely. Okay, thank  
13 you.

14          DR. MILSTEIN: A question about slide 6, the last  
15 bullet, that's not a small deviation. My question, is  
16 politics aside, do we have, from a technical point of view,  
17 does CMS have a way of implementing a survey that would be  
18 more accurate?

19                 In other words, is the technical barrier solved?  
20 I couldn't tell from your presentation. Is it something we  
21 could adopt or is it unknown whether a more accurate survey  
22 is more feasible?

1 DR. HAYES: There's a couple of ways to answer the  
2 question. One would be to ask whether there are other data  
3 sources available to CMS, conceivably, to develop time  
4 estimates like this, and this would be the kind of topic  
5 that we would want to pursue, if we were to do work on this  
6 topic.

7 I can tell you right now that contractors for CMS  
8 have looked at alternative data sources. They have looked.  
9 For example, for surgical procedures, they have looked at  
10 operating room logs. For evaluation and management  
11 services, they have looked at the National Ambulatory  
12 Medical Care Survey which includes some estimates of time.

13 Now these data sources, I'll hasten to say, are  
14 not perfect. There are some limitations that the  
15 researchers, that the contractors have noted in doing their  
16 work, that would have to be considered in any use of data  
17 like this. But there is a potential there, it would seem,  
18 for some alternatives.

19 The other part of the work that we would propose  
20 to do would be to just see what it would take to generate  
21 estimates some other way, other than what's done now, which  
22 is either to rely on the work that Professor Hsiao did in

1 the late eighties or the estimates that the RUC generates.

2 MR. KUHN: Arnie, just one other way you could go  
3 about this is that you're actually right in terms of the  
4 other data sources, but CMS could probably do a limited  
5 study with a contractor that would look at, say, five  
6 procedures per year that are representative of each  
7 specialty that's out there, and they could go to a subset of  
8 hospitals.

9 Take out teaching hospitals because I think those  
10 would be a bit of an outlier, but I think they could do a  
11 pretty good survey of community hospitals and other  
12 hospitals and look at this information and get back some  
13 pretty good data, that then you could look at analysis and  
14 make sure that it's fairly accurate. But I don't think it  
15 would take a lot of effort to get some real accuracy and get  
16 some real-time data in this space.

17 MR. HACKBARTH: So, take this example here, the  
18 colonoscopy, what's the source of those estimates?

19 DR. HAYES: The 30 minutes comes from -- for that  
20 particular code, I believe that that is one that has been  
21 reviewed by the RUC. So it would be a RUC number.

22 MR. HACKBARTH: That's what I thought. And, the



1 RUC gets the number by asking the specialty to submit data  
2 for their service?

3 DR. HAYES: In general, to survey members and to  
4 submit data.

5 DR. BERENSON: As a matter of personal privilege,  
6 this came from me in a letter to the editor for the Annals  
7 of Internal Medicine, based on an interaction we had after  
8 Bill Rich wrote a letter complaining that we had used this  
9 example. This actually was original Hsiao estimates. It  
10 had not been through the RUC process. It was one of the  
11 unusual ones that was still Hsiao. What is still in the RUC  
12 database and on CMS, if you go, would be 30 minutes of  
13 intraservice time, 71 minutes of total service, pre and  
14 post.

15 It just happened that a few months before this  
16 interaction we had, the New England Journal had published an  
17 article on the identification of polyps based on the number  
18 of minutes you spend during a colonoscopy. I don't know if  
19 you remember it. If you spend two minutes, you find two  
20 polyps. If you spend four minutes, you find four polyps.  
21 They had recorded for 7,000 or so consecutive colonoscopies  
22 the data, and so that's what the comparison was.

1           But that was purely opportunistic that we had had  
2 that article published.

3           And, I agree with Herb completely, that we could  
4 just contract with some hospitals or for Kaiser Permanente  
5 and get some real data in this area.

6           We also could do the same thing with multiple --  
7 we could bring in a lot of surgeons and ask them how much  
8 time you save by doing two procedures or we could go measure  
9 this and actually find out what the savings are.

10          So I think the suggestion here is that we get real  
11 data rather than guess.

12          MR. HACKBARTH: Could you tell me what percentage  
13 of the time estimates are carryovers from the original Hsiao  
14 work versus new numbers produced by the RUC?

15          DR. HAYES: I can't give you that. I can find  
16 out, but I don't know.

17          MR. KUHN: I would just say on that I think, if I  
18 remember data from a year ago, I think it was around 80  
19 percent had gone through the process, but the 20 percent  
20 that had not were extraordinarily low volume procedures out  
21 there.

22          MR. HACKBARTH: Okay, so clarifying questions.

1 DR. BERENSON: You say on slide 4 that the next  
2 five-year review of RVUs will begin this fall.  
3 Traditionally, the five-year review was of work, and I  
4 understood there was going to be a separate five-year review  
5 cycle for practice expenses. Is that being combined in some  
6 way or do you mean work here?

7 MR. WINTER: We don't know when they plan to do a  
8 five-year review of practice expenses. We've asked about  
9 this in our comment letters, and, based on my recollection,  
10 CMS has not opined in their proposed rules or final rules  
11 about when this five-year review of PE might be initiated.

12 DR. BERENSON: So this is a five-year review of  
13 work.

14 MR. WINTER: I think that's what, right.

15 DR. HAYES: The only qualifier I would put on that  
16 is that we do want to see what the notice looks like that  
17 comes out of CMS and what it is that they're asking for in  
18 terms of the content of this five-year review. It certainly  
19 will be work, and it's just a bit of a question about  
20 whether it might include practice expense or not. I don't  
21 know.

22 DR. CROSSON: Yes, Kevin, on slide number 7, we

1 talk about the calculation of physician work, the intensity  
2 piece. Those elements that go into the calculation --  
3 mental effort, judgment, technical skill, physical effort,  
4 stress -- in the calculation, are those actually given a  
5 value and then somebody totes it up and comes up with a  
6 number? Are they weighted? Or, is it simply that someone  
7 or some group looks at all of those together and makes a  
8 subjective judgment which then becomes a number?

9 DR. HAYES: Yes. My observation is that it's more  
10 the latter, that it's a result of a deliberative process  
11 that the RUC goes through to consider survey responses on  
12 questions about these matters as well as the time, all of  
13 this, comparing to a reference service. So it's -- and then  
14 a lot of discussion amongst the RUC members.

15 MR. BUTLER: Quick question, back to slide 6, we  
16 seem to be hung up on colonoscopies here, but just a scope  
17 question.

18 [Laughter.]

19 MR. BUTLER: There are situations where you got a  
20 code for just the professional component because there is no  
21 practice expense for the physician, and then in other cases  
22 you might be in a free-standing place where you would -- you

1 know. The practice expense would include obviously a lot  
2 more. Both of those are within the scope, again, of what we  
3 would be looking at, is that right?

4 DR. HAYES: These time estimates are for the time  
5 that the physician spends furnishing the service. So the  
6 practice expense, the time, say, that a nurse or others  
7 assisting in the procedure would put into the service, that  
8 would not be included in this.

9 And, it would be pretty much independent of the  
10 setting. I mean the physician is going to furnish the  
11 service in whatever setting, and it's how much time does the  
12 physician take in furnishing the service.

13 MR. BUTLER: Okay. But as you reprice not just  
14 the physician time component of this, but the technical  
15 component of providing a colonoscopy, how does that fit into  
16 this equation? Not at all?

17 DR. HAYES: That would be among the practice  
18 expense, the payment for practice expense. So, when Ariel  
19 talked about estimates and data used there, it could be that  
20 there would be some opportunity to look at the technical  
21 component as well.

22 MR. BUTLER: Okay.

1           MR. WINTER: The practice expense varies by  
2 setting, so it's higher in the office than ASC, OPD.

3           MR. BUTLER: No kidding, yes. That's the point.

4           MR. WINTER: But the work stays the same, as Kevin  
5 was saying.

6           MR. BUTLER: Right.

7           DR. DEAN: I just didn't understand on slide 8,  
8 for instance, to pick on colonoscopy again, the compensation  
9 per hour because \$106 is certainly dramatically different  
10 than my understanding of what the real income per hour  
11 actually is. How did this get, this 106, get calculated?

12           DR. HAYES: This would be the work RVU for the  
13 service divided by the amount of time, stated in hours, that  
14 it's estimated it takes to do this service and then that  
15 multiplied by the fee schedule conversion factor. Now this  
16 estimate, this number could change if the time figure  
17 changes.

18           DR. DEAN: The other aspect of that, and as I  
19 recall the paper that Bob just referred to, is there was a  
20 variation in terms of the amount of time between different  
21 providers. Wasn't that?

22           DR. BERENSON: The variation was in minutes, a few

1 minutes. In other words, the difference between spending  
2 eight minutes or twelve minutes was the difference in the  
3 finding of polyps. This was a single group practice in any  
4 case, so it wasn't huge.

5 DR. DEAN: Okay. Maybe I misunderstood, but there  
6 was a correlation with the accuracy of the findings with the  
7 time -- the shorter the time, the less accurate the  
8 findings.

9 Anyway, I guess my question was how do we factor  
10 in the variability in terms of the speed at which physicians  
11 work? Maybe this isn't the best example. We know that in  
12 some procedures there is quite a lot of variation.

13 DR. HAYES: The estimates that CMS is aiming for  
14 here is the typical, the typical time.

15 MR. HACKBARTH: Okay, we are at 4:30, which was  
16 our original scheduled time for ending this. I would like  
17 to go around one more time quickly.

18 As I said at the outset, of particular interest to  
19 me is sort of helping the staff figure out how to focus our  
20 next steps here. Do we want them to sort of take a narrower  
21 cut at this, focused at some of the particular issues raised  
22 here, or do we want to open up broader issues about how we

1 pay physicians?

2 DR. BORMAN: In trying to specifically speak to  
3 that, Glenn, I think I see real risk for us, the biggest  
4 risk for us as a Commission, in mixing apples and oranges.  
5 That is coming at some things in a very detailed way and  
6 trying to come at some things in a very broad way. In the  
7 end, we will create more harm probably by being in the  
8 middle of that than we would by picking one or the other.

9 I think if you go back to almost your very first  
10 slide that's got the rising graphs, it just begs the  
11 question once again of if we're really going to deal with  
12 this why are we not focusing on the areas of most rapid  
13 growth in dealing with that, number one.

14 A second cut at that, potentially, is high-volume  
15 services. I would point at, just as an example of that, if  
16 you change one minute of the time in 99213, the established  
17 office patient, you move more money in that than you do for  
18 almost the entire fee schedule for certain surgical  
19 specialties because just of the enormous number of  
20 established office visits. So the magnitude of the  
21 differences, even though they're small, for high-volume  
22 services can become equal to things that are big differences



1 for small-volume services.

2           So, having said that, I would just urge us to be  
3 very careful about how deeply or how down into the weeds of  
4 some of this that we get as a Commission. I think we can  
5 certainly raise some questions, but it will just take too  
6 much education of all of us about the ins and outs of this  
7 to make very specific things about the methodology, I think,  
8 of some parts of the fee schedule unless we've got a very  
9 specific goal of a particular tweak that we want to get to.

10           I think looking at the broad issues, like this  
11 graph, are probably more productive. If we wanted to pick  
12 one of the items that has been brought forward, perhaps it  
13 relates to how we look at multiple procedure reductions as  
14 one facet of the how do we bundle services issue. I would  
15 like to maybe see it go from sort of just that narrow how do  
16 we do multiple procedures reduction to an idea of how we  
17 bundle services commonly put together. I think that might  
18 be an appropriate way to come at this, consistent with some  
19 of our other stuff.

20           But I think getting down in some of these other  
21 weeds about whether the components of intensity, how are  
22 they measured, da-da-da, I just think that's taking us down

1 a multi-year project. If that's where we want to go, great.

2 DR. STUART: I think that another possible cut on  
3 this thing is to ask empirically where we think the problems  
4 are. If I heard Herb right, if it's a question of outliers  
5 that's really generating this, then that's something that  
6 CMS, with some reasonable small addition of resources, could  
7 handle. So maybe our job is as the traffic controller here.

8 I mean is there some mechanism by which we could  
9 prioritize the payment issues and then focus on those and  
10 then pass that off to CMS?

11 DR. CASTELLANOS: I'd like to try to keep it as  
12 narrow as possible, but I'd like to look into the bundling  
13 aspect. I think that's maybe something we want to go  
14 towards.

15 DR. CHERNEW: I think because the fee schedules  
16 for the broader things that we talked about are going to be  
17 based off from what we observe in payments now, and what we  
18 observe in payments now is going to be based on the fee  
19 schedule that we have now, I think it's worth it to have a  
20 narrow dive, not in a particular service, though. I don't  
21 want to say that this procedure, that procedure.

22 But in sort of the process of what's happening

1 overall, I think that the narrow level is important, and I  
2 think we should reserve the broader questions about  
3 physician payment to the discussions of broader payment in  
4 general, integration across all the bundling things. So I  
5 would rather -- I do think there's room for a chapter on  
6 getting the narrow parts right because I think the narrow  
7 parts and its expense are going to go into the estimates,  
8 that when we have to come up with the fees for the other  
9 things, we're going to have to figure out what it costs.

10 DR. MILSTEIN: My notion is to focus narrowly but  
11 emphasize a speed of correction because my notion is that  
12 the willingness of providers to embrace a more enlightened  
13 system of payment is going to partly depend on closing off  
14 what has been a very, extremely poorly managed aspect of  
15 physician reimbursement under the Medicare program -- which  
16 is, in turn going to, kind of like a serious infectious  
17 disease, spread in the ways that Jay described, into the  
18 private sector and even prepaid health. This is a serious  
19 outbreak. It's endemic. It's been going on for a long  
20 time.

21 If I had to pick based on the evidence we've seen  
22 so far, where to focus, it would be, understanding that

1 there are obviously many imperfections in this cost-based  
2 payment system, it would be on the time estimates. What we  
3 saw was something that's off by order of magnitude of 60  
4 percent. The idea that it's been tolerated for so long is  
5 remarkable and instructive in and of itself.

6 I think narrow, get it fixed because, among other  
7 things, it will encourage a more friendly welcome for new  
8 payment systems based on value.

9 DR. KANE: First of all, I think one of Bill  
10 Hsiao's collaborators, Peter Brown, had sent me a study on  
11 the problem with time, and I think there is -- a lot of work  
12 has been done. So I'll try to find that, but I think there  
13 has been some investigation of that. It may just be that no  
14 one has taken it up for a while.

15 And, that comes back to what I thought when we  
16 last talked about this, which must have been my first year  
17 here or something. We talked a lot about the process by  
18 which mispriced services are identified, and the process  
19 itself was biased towards identifying underpriced  
20 procedures. And, I know we made a set of recommendations  
21 about trying to create a way to identify overpriced  
22 procedures, and I don't know whether they were ever

1 implemented or whether we need to restate them, that there  
2 needs to be a way.

3           Maybe tables like Table 1 here is one way to get  
4 started or take a look at the stuff on time that I know has  
5 been done and say maybe somebody needs to review these, what  
6 look like overpriced services. So I think our proper  
7 purview is really on the process by which mispricing is  
8 identified and making sure they get the over and the under,  
9 as well as the under. I don't know whatever happened to  
10 those.

11           Then I guess my other recollection, as I recall it  
12 was probably one of our most painful meetings, was talking  
13 about practice expense. It's very complicated. I actually  
14 did research on it for CMS a years ago. It's a horrible  
15 subject because there is no cost data. People are not  
16 exactly making it up but very close to making it up.

17           It would be interesting to sort of get a MedPAC  
18 staff review of the new cost data that's coming in and how  
19 it looks relative to what was there before. What are the  
20 big changes? How have the different cost categories  
21 changed? The relativeness of the cost among the  
22 specialties?

1           It would be useful to just sort of get an overview  
2 of whether we think this new cost data are any better than  
3 what I really used to think was just made-up data. I mean  
4 it got to be so esoteric -- a socioeconomic survey, just  
5 really esoteric.

6           So is this new data set better? Then, if so, what  
7 would we recommend about whether it should continue to be  
8 produced this way, or how should it be tweaked to be  
9 slightly better than that? I think those are the two levels  
10 that I think the Commission can get engaged in.

11           Anything down to the level of a specific code, we  
12 don't want to go there. Bill Hsiao spent \$5 million, 5  
13 years and involved hundreds of people. We can't do that.

14           MR. HACKBARTH: Kevin, do you want to address  
15 Nancy's question about what's happened with our  
16 recommendations on reforming the process?

17           DR. HAYES: Sure, and I'll be brief, and this will  
18 be something that we would want to flesh out later. But, in  
19 general, the CMS has chosen not to set up the expert panel  
20 that the Commission recommended. They have, however, in the  
21 most recent proposed rule on the fee schedule, they did  
22 solicit public comment on this idea, which was the first

1 that the Agency really had acknowledged the recommendation.  
2 So we'll just have to see now what they do.

3 They will, of course, get a lot of comments. We,  
4 in our comment letter, reiterated the recommendations that  
5 we made, of course. It will be good to see now in November  
6 if they will be put out a final rule that will have response  
7 to comments, summary of comments and a response to them. So  
8 we'll just have to see where that goes.

9 The other thing to say here is that, and I think  
10 this is fair to say, it's motivated a lot by what the  
11 Commission recommended in 2006, that CMS has worked more  
12 closely with the RUC on these issues. For example, last  
13 year, the Agency sent the RUC a list of over 100 high-  
14 growth, high-volume growth codes and said, please review  
15 these. There have been some other things like that, but  
16 that's the most visible example of an initiative that CMS  
17 has taken in this area.

18 The RUC itself has formed a work group to address,  
19 which has, in turn, -- to address potentially misvalued  
20 services and to do so in between five-year reviews. The  
21 work group has set up, has adopted a set of screening  
22 criteria. They apply it to data and have identified many

1 codes for review.

2 That process is still ongoing. It's kind of hard  
3 at this point to summarize what it is, but, in any case,  
4 there is some activity. But that key piece having to do  
5 with the panel that the Commission recommended, that has not  
6 happened.

7 DR. KANE: I'd like to hear all those things sort  
8 of put into the background here before we think about  
9 whether we want to, can or should or want to do more because  
10 it seems to me it was more the process was the issue, not  
11 the specific details. It would be nice to get caught up on  
12 that.

13 DR. BERENSON: Yes, I was just going to make the  
14 same point that Kevin just did. I think from my vantage  
15 point -- I work in this area -- MedPAC's recommendations in  
16 2006 were very important in a number of ways. It got the  
17 RUC much more responsive and assertive in their  
18 responsibilities, and I think they have now dramatically  
19 improved what they are doing around mispriced services.

20 The recommendations have been part of House and  
21 Senate legislation, and we'll see what passes. But the  
22 Senate Finance, Mark, now has a multi-stakeholders sort of



1 committee that would play a major role in this area.

2           And, I can say that there are consumer groups and  
3 private payers and purchasers who look at how these fees  
4 have been calculated over the years and articulate great  
5 concern about the fox guarding the chicken coop and where  
6 are beneficiary interests represented.

7           I don't know that at this moment we would want to  
8 go into a new method of factoring value of services on our  
9 own because I think we have plenty to do just within the  
10 construct of getting underlying resource costs correct.

11           I think one of the common threads across the four,  
12 at least three of the four, issues you posed is whether  
13 there is a process approach for substituting real data for  
14 estimates, and that is true on practice expenses also. We  
15 have talked, as I understand it, MedPAC has talked about  
16 identifying efficient providers and figuring out what  
17 reimbursement should be for efficient providers. One could  
18 think of a sampling approach to identify a range of  
19 physician practices, but somehow defined as efficient, to  
20 get some real data on practice expenses rather than relying  
21 on a survey that may or may not happen, where again -- I  
22 mean I just think.

1           I don't have the answer at this moment, but I  
2 think we can constructively contribute to a discussion of  
3 how economically and efficiently we could start moving away  
4 from, frankly, self-interested estimates by specialty  
5 societies to objective data, and I think we should. That  
6 should be out top priority.

7           While I think some sorting out is going on about  
8 the role to which the basic construct of how these fees are  
9 conducted or determined, while that conversation happens, I  
10 don't think we should lead with that, but perhaps we'd come  
11 back to that in a year or two.

12           DR. CROSSON: So, if you could lay out the  
13 spectrum here of doing nothing versus taking on the whole  
14 spectrum that you talked about, it sounds like one choice  
15 would be to leave everything alone.

16           The next choice might be to simply work on the  
17 time element of the work RVU.

18           The next choice would be to work on time and  
19 intensity. I suppose you could work in intensity and not  
20 time, but there does seem to be a sense that the time piece  
21 is more easier to get at.

22           Another choice would be the work part and the

1 practice expense part, but there's some discussion about  
2 whether we want to take on all that.

3           And then, to go further than that, it would seem  
4 to me it would be the idea of why don't we forget about all  
5 of it and think about paying an efficient provider or think  
6 about how to factor in issues like societal value and the  
7 like.

8           So that's the spectrum.

9           I think where I come down is, if we can, to work  
10 on the work part of this and to look at both time and  
11 intensity because I think the time part is probably doable.  
12 It's something that's objective, can be measured.  
13 Corrections could be made, particularly to the areas that  
14 seem to be outliers.

15           The intensity part is much more difficult, but I  
16 have the sense, and I've been affected by Tom's description  
17 for sure. I have the sense that perhaps the relative  
18 intensity now -- for example, between a family practice  
19 physician taking care of 90-year-old patients with 5  
20 conditions and 15 drugs and the work of some other  
21 physicians, the relative intensity difference may be  
22 different now in general than it was 30 years ago.

1           At least, we have marketplace that seems to be  
2 saying that in the sense that younger physicians are looking  
3 at the choices of careers and are saying, and I understand  
4 some of it is based on how much money they could make, but  
5 some are also saying it's just simply too hard. There's too  
6 much stress. There's too much mental effort. There's too  
7 much physical effort, of practicing general medicine. I'd  
8 like something which is simpler.

9           So the market is saying, perhaps, that those  
10 values which may have been set appropriately 30 years ago  
11 may not have been properly updated and, therefore, need to  
12 be looked at again.

13           DR. SCANLON: I'm in the narrow camp as well, but  
14 at the same time I think it's very important that we do  
15 something in this area. Part of being in the narrow camp, I  
16 mean, would be that I think that it doesn't take much, if  
17 you look at historically what's happened, to come up with a  
18 set of principles about what you think would be improvements  
19 in some respects, in the current system.

20           The first one, I'm kind of echoing what Bob said,  
21 is data. It's not acceptable that we don't invest in the  
22 collection of data. It's not acceptable that we don't

1 insist on people giving us data, that are participating in  
2 the program.

3           We talked about this the last cycle. The fact  
4 that we've got new practice expense data now is just  
5 happenstance because for about four years here we've been  
6 talking about how this survey was underway and the response  
7 rate was still low and we were trying to boost it.

8           In 2013, the group that's here shouldn't be  
9 talking about the same thing, about practice expenses. It's  
10 going to potentially be updated next year. So that's sort  
11 of one thing I think.

12           I mean in terms of time and intensity, time is the  
13 easy thing to think about in terms of data, if you make the  
14 investment.

15           Intensity, I'm disturbed by what's in Table 8. I  
16 don't understand it, and I think I believe that there's an  
17 intensity. There's a need for an intensity adjustment,  
18 okay, but I don't know how to get there. So I think taking  
19 that on, I don't know where we end up because that's a  
20 difficult conceptual question.

21           Frankly, as an economist, I would have thought  
22 about sort of building fees in terms of what was your

1 lifetime return to your investment in your education, and  
2 you think about that. It's in terms of, okay, I've got  
3 different levels or different amounts of time spent in  
4 education, which involves different amounts of debt,  
5 expense, et cetera. Then I have different career patterns,  
6 career life, in terms of how long can I practice doing this  
7 kind of thing before sort of I am going to be outmoded. So  
8 that, to me, was something as a way of thinking about what  
9 the costs are in terms of attracting people to particular  
10 specialties.

11 I know we're not there. We're dealing with  
12 intensity, which I don't understand, but I think we have to.

13 MS. HANSEN: My question is probably just a  
14 different angle on the issue of time and intensity, and that  
15 is access, taking it from an access standpoint.

16 I've talked to my son who is an orthopedic  
17 resident, and we talked about some of the patients that you  
18 have. So it's somewhat the Jay example but somewhat  
19 different. Say, you have somebody who is a 300-pound person  
20 who's having some orthopedic surgery as compared to a  
21 colleague of mine who broke his hip, whose 45 years old and  
22 a bicycle rider.

1           So the complexity of dealing with this, some of it  
2 might be age, but some of it might be an older woman who is  
3 extremely osteoporotic and having a problem as compared to,  
4 again, somebody who's younger, who's getting a knee  
5 replacement. How do you weight for that, so that ultimately  
6 the practicing physician is compensated appropriately,  
7 however this appropriateness is, using time and intensity  
8 and accuracy, so that they do not shun these kinds of  
9 patients, the more complex ones?

10           So I don't know what that is, but I'm concerned  
11 from the access standpoint.

12           MR. BUTLER: So my view is not a continuum; it's  
13 an either/or.

14           On the either side, I would say that Congress is  
15 our customer. We have a five-year cycle that we have upon  
16 us. If we have a unique insight or an independent voice  
17 that is going to make a difference in this five-year cycle,  
18 that's where we should focus our energy, if that's on the  
19 time side, whatever. So it's either a technical insight or  
20 an independent voice that will contribute.

21           If there are 50 voices out there and technical  
22 expertise and we're just another voice, I'd say abandon that

1 and go to the blue sky. The physician-centric, office-based  
2 visit view of the world in the way health care is going to  
3 be delivered in the future is going to be outdated, and we  
4 should think about different ways if we're going to interact  
5 between patients and systems and so forth and focus totally  
6 at the other end, exclusive of this issue.

7 MR. KUHN: As we look at this, and I too think we  
8 need to think narrow here, but as we think on a go-forward  
9 basis to new payment models that ultimately, hopefully, will  
10 pay for efficient providers, if we don't have this platform  
11 as accurate as we possibly can and we have this once, we  
12 have this chance in this five-year review, because whatever  
13 we go forward with will likely use this as a base to build  
14 upon. So I think this is time well spent, and it's worth  
15 doing.

16 Having said that, there's about four areas I'd  
17 just like to comment on real quickly.

18 First is the multiple procedures, and I like the  
19 notion of commingling, also bundling with this. I think  
20 this would be very valuable work for us to do. I think, as  
21 we all know, there are many physicians who code in a very  
22 micro way, and I think there is a pretty good school of



1 thought out there is that when you have that kind of  
2 detailed coding, it does lead to inflated RVUs. So I think  
3 our chance to kind of work in this area would be valuable  
4 and useful.

5 In terms of the practice expense and up-to-date, I  
6 have a little pride of authorship in this study. So I know  
7 you didn't mean to call my baby ugly, but I'm the one that  
8 did sign the contract at CMS for this particular survey. So  
9 I hope it comes out good, and you get all the information  
10 you want.

11 But, as we go forward on this survey, I think some  
12 recommendations from MedPAC in terms of how to keep this  
13 information to date because we'll finally get some baseline  
14 information that's been long overdue. Whether it's the  
15 American Medical Association that's doing the survey,  
16 whether it's an opportunity for CMS to contract with them in  
17 the future or whether there's some kind of third party  
18 entity, some foundation or some other research group that  
19 can do that, where there's some trust.

20 But it can't be CMS because the physicians just  
21 won't trust CMS. CMS tried to this survey in the nineties,  
22 and it just didn't work.

1           The accuracy of the time data, we already talked  
2 about that a little bit. I think there is a pretty easy way  
3 for CMS to contract and move in this area.

4           Then finally, on the work estimates, and I think  
5 it's worth for us to kind of recycle the recommendations  
6 that you made before. I will tell you, when I was at the  
7 Agency, the recommendations MedPAC made were extraordinarily  
8 impactful on CMS in terms of the actions they took.

9           Yes, we didn't take action in terms of the panel  
10 that we thought about, that you all recommended. That would  
11 have been basically some managed care docs and VA docs and  
12 medical officers from CMS and others, but it was a federal  
13 panel. Would the physician community really trust the work  
14 of a federal panel in this and could they replicate the work  
15 of the RUC?

16           I think our thinking at the time was it probably  
17 could not. At least that was CMS's view of the world in  
18 that regard, and just we were worried about the credibility  
19 of that.

20           But, instead, what we thought we would do is start  
21 this effort, and you talked about it, of the 100 procedures  
22 and send those into the RUC, work with the RUC and start

1 that process.

2           So I think one of the things, we might want to  
3 think about refining some of our recommendations. Is there  
4 a chance that we could help CMS think about data-mining  
5 exercises that they could go through and pick out either  
6 other procedures or the time lag from the last time the RUC  
7 looked at those procedures or a variety of different things,  
8 but give them the guidance because they're already kind of  
9 in for diamond, for dollar.

10           They've already sent the 100 procedures. If we  
11 could give them an algorithm that helped them look, that  
12 they could pick even more procedures that we thought make  
13 sense, it might work as well as one of our recommendations.  
14 It's something to think about.

15           MS. BEHROOZI: I would vote for taking the broader  
16 look and talking about some of the broader issues that we  
17 talk about over the course of our various different  
18 discussions.

19           And, going back to the concept of value, it really  
20 does seem like there are a lot of value judgments sort of  
21 embedded, particularly in the intensity measurement. The  
22 way you described them in the paper, clearly, they are

1 supposed to be from the physician's point of view, but they  
2 also really reflect our value judgments about what we think  
3 is the most important thing that physicians do or the  
4 hardest thing that they do.

5 I think that in all our other discussions we talk  
6 about the value to the patient and the value to the  
7 purchaser. Medicare is a purchaser. I think those don't  
8 always correspond to looking at it from the how hard is it  
9 for the physician to do this thing because, going back to  
10 the example of Tom and his patient, yes, that sounds a lot  
11 harder to me than a lot of the other things that seem to be  
12 the real hoity-toity things by this list or whether it's  
13 diagnosis of pain, that the person can't even tell you where  
14 it is. There are a lot of things that I think we need to  
15 express our value through dollars.

16 But that's a big thing, and that's difficult, and  
17 we can't just leave this alone, the mess that it is I think,  
18 until we get to that more perfect system for paying doctors.

19 So I think some of the points that were first  
20 raised by Karen and I think others have said similar things,  
21 to really focus on mispriced services or the areas where we  
22 really can have the most impact by looking at the specific

1 components, but not across the board, not for everyone.

2 DR. DEAN: I think obviously we need to try to  
3 make this as accurate as possible. Having said that, I  
4 think the basic system is fundamentally flawed and because  
5 primarily for the reason you raised, Glenn, that it doesn't  
6 include the value. There's nothing in the system that tells  
7 us whether that procedure should have been done in the first  
8 place, let alone whether it's well done or not.

9 The other thing, measuring intensity is extremely  
10 difficult. You can take all the demographic factors you  
11 want, and it still doesn't describe the difference. I mean  
12 you can have two people with exactly the same factors, and  
13 there will be a massive difference in how the struggle that  
14 we go through in trying to set up a plan of care.

15 And, the other thing is it's a constantly changing  
16 environment, especially with the technical procedures, that  
17 things that are -- I remember hearing stories of the early  
18 days of cardiac surgery, when the surgeons really struggled  
19 because they were in an ill-defined zone. Now much of that  
20 is pretty well -- I don't mean to say it's easy, and I don't  
21 want to give the wrong impression, but still it's very  
22 different than it was in the fifties and sixties.

1           There's a great deal of difference in the way  
2 physicians approach things. Some take much longer to do  
3 things than others. So it's just I think we're trying to do  
4 something that just inherently may not be possible to do.

5           I mean I like Nancy's suggestion. We need to  
6 focus on the procedures which seem to be out of line, and we  
7 need to emphasize the fact that we probably need to be  
8 looking for better ways to do this. But, given what we've  
9 got, we should try to do the best we can with what we've  
10 got.

11           MR. HACKBARTH: Okay, so the bad news is that  
12 we're a half hour behind, and it's 5:00. The good news was  
13 that even at 5:00 people seemed to think the topic was  
14 important that they were still engaged in the conversation.

15           The bad news is that we've got another hour to go,  
16 and I suspect that this is also a topic that's going to  
17 engage people. So the likelihood that we're going to make  
18 up this half hour in the next half hour is not very good.  
19 So we're going to be running a little over time tonight.

20           Thank you, Kevin and Ariel.

21           And, Ariel is back again for more.

22           MR. WINTER: Hello again, slightly different topic

1 but still on the physician theme.

2 Over the last several years, the Commission has  
3 expressed concern about the volume growth of physician  
4 services and its impact on Medicare's fiscal sustainability.  
5 In addition, several commissioners have raised concerns  
6 about physician self-referral, involving specialty  
7 facilities and in-office ancillary services. The physician  
8 self-referral law, also known as the Stark Law regulates  
9 these ownership arrangements.

10 In today's session, we will examine a provision in  
11 the self-referral law that allows to physicians to perform  
12 ancillary services and other kinds of services in their  
13 offices. The question we'd like you to consider at the end  
14 is whether we should pursue further work in this area.

15 So, here, we define the self-referral law. The  
16 law prohibits physicians from referring Medicare or Medicaid  
17 patients for certain designated health services to a  
18 provider with which the physician has a financial  
19 relationship, unless that relationship fits within an  
20 exception. Designated health services include clinical lab  
21 tests, imaging, physical therapy, radiation therapy,  
22 hospital services and other services, a few other services.

1           The law generally prohibits physician ownership,  
2 but physicians are allowed to provide most designated health  
3 services in their offices under the in-office ancillary  
4 exception.

5           The law also applies to compensation arrangements  
6 between physicians and facilities, but we won't be focusing  
7 on that today.

8           According to a summary of the original Stark Bill,  
9 the rationale for the exception is that there's often a need  
10 for quick turnaround time on diagnostic tests such as lab  
11 tests and x-rays. However, Congress ultimately included  
12 most other designated health services in the exception, such  
13 as radiation therapy and physical therapy, even though some  
14 of these are not diagnostic tests.

15           The services that Congress excluded from the  
16 exception were most types of DME and parenteral and enteral  
17 nutrition services.

18           The exception has three key requirements which are  
19 listed here:

20           First, the services must be personally furnished  
21 or supervised by the referring physician or another  
22 physician in the group.



1           Second, the services must be furnished in the same  
2 building where the referring physician provides other  
3 physician services or in a centralized location that the  
4 group uses to provide designated health services.

5           And, three, the services must be billed by the  
6 physician or the group.

7           Here, we looked at some of the potential benefits  
8 and concerns that have been raised about physicians  
9 providing these kinds of services in their offices.  
10 Supporters say that there is improved access and convenience  
11 for patients. According to one study, patients are more  
12 likely to receive a test on the same day as their office  
13 visit if they are seeing a self-referring physician. In  
14 addition, physicians with in-office equipment may be able to  
15 get test results faster, which helps with continuity of care  
16 and developing a treatment plan.

17           However, additional capacity for services like  
18 imaging could lead to higher volume, and there's evidence  
19 that more CT and MRI machines in a market is associated with  
20 higher overall volume.

21           In addition, physicians who invest in ancillary  
22 services for their offices have a financial incentive to

1 order additional tests and treatments. Indeed, several  
2 studies support this hypothesis, and it is unclear whether  
3 the additional services meet standards of appropriateness or  
4 contribute to improved patient outcomes.

5           The in-office exception has had a major impact on  
6 how physician practices are organized and how and where  
7 services are delivered. Over the last several years,  
8 there's been an increase in imaging, pathology tests and  
9 physical therapy in physician offices.

10           In the proposed rule for the 2008 Physician Fee  
11 Schedule, CMS noted this phenomenon and asked for a comment  
12 on whether certain services should no longer qualify for the  
13 exception, such as services that are not needed at the time  
14 of the visit to help with the diagnosis or treatment. CMS  
15 has not yet followed up with a specific proposal.

16           The Commission has also examined various aspects  
17 of the Physician Self-Referral Rules and recommended ways to  
18 strengthen them, but we have not delved into the in-office  
19 exception.

20           In response to CMS's request for comment, as well  
21 as commissioners' interest in this topic, we could explore  
22 possibilities for modifying the exception. In a few

1 moments, I'll mention some of these ideas, and I want to  
2 mention that we're going to use diagnostic imaging as an  
3 example to illustrate these ideas, but they could be applied  
4 to other services that are covered by the in-office  
5 exception as well.

6           First, I just want to briefly explain why we've  
7 chosen to use imaging to illustrate these ideas. They've  
8 experienced rapid growth over the last several years, along  
9 with an increase in physician investment in imaging  
10 equipment. Of course, there are multiple factors that,  
11 besides driving growth, besides self-referral, include  
12 technological advances, defensive medicine and patient  
13 demand, among others. Further, a large body of research,  
14 including an analysis conducted by the Commission this past  
15 year, has found that physicians who own imaging equipment  
16 are more likely to order imaging studies.

17           These patterns are not unique to imaging. Several  
18 other kinds of services covered by the exception have also  
19 been increasing rapidly, such as physical therapy, radiation  
20 therapy and lab tests. There have also been reports of  
21 increased investment in these services by physicians, by the  
22 physicians who order them.

1           So, here are some ideas that we want to put out  
2 for your discussion, and these are simply concepts to frame  
3 possible directions that could be pursued and are not meant  
4 to be concrete proposals.

5           So the first idea listed here is to exclude all  
6 imaging services from the in-office exception. This would  
7 be a fairly simple approach to implement, but it would be  
8 difficult to justify because some types of imaging are used  
9 to make rapid diagnoses in the office, just taking a chest  
10 x-ray to diagnose pneumonia, for example.

11           The second idea would be to exclude imaging  
12 services that are not generally performed on the same day as  
13 an E&M office visit. The rationale for this approach is  
14 that certain imaging services provided in physician offices  
15 go beyond what is necessary for the physician to make a  
16 rapid diagnosis at the time of the physician's visit, which  
17 has been cited as a justification for the exception.

18           One article was found that the rate of same-day  
19 imaging tended to be higher for certain modalities, such as  
20 standard x-rays, than for others.

21           In addition, certain studies may require advanced  
22 patient preparation and therefore may require advanced

1 scheduling. For example, a patient who receives a CT with  
2 contrast dye may have to fast for several hours beforehand.

3           However, it may be difficult to set a standard  
4 that distinguishes imaging tests provided on the same day as  
5 a visit from tests provided on different days. This is  
6 because the rates of same-day imaging for a given test may  
7 vary by type of practice, clinical condition, geography and  
8 other factors.

9           The third idea is to exclude practices from  
10 performing imaging under the exception unless they are paid  
11 on a capitated basis, but surrounding this approach is a  
12 concern that practices have an incentive to order more  
13 services when they are paid on a fee-for-service basis. In  
14 contrast, practices that receive a fixed amount of money per  
15 member per month do not benefit financially when they order  
16 additional imaging studies, and, in fact, they have an  
17 incentive to use resources efficiently.

18           A recent study found that practices with a higher  
19 proportion of revenue derived from capitation were less  
20 likely to provide imaging studies to patients with  
21 uncomplicated low back pain, which is a condition for which  
22 imaging is rarely indicated. This suggests that capitated

1 practices may be less likely to use imaging inappropriately.

2           However, a study of Group Health Cooperative,  
3 which is a largely capitated health system, found that the  
4 use of imaging for its members grew rapidly over a 10-year  
5 period, and this suggests that the incentives in a capitated  
6 system may not be sufficient to restrain volume growth.

7           This approach would also raise some implementation  
8 questions. The practices need to be fully capitated or  
9 partially capitated to qualify for the exception. You would  
10 probably want to allow practices that see at least some fee-  
11 for-service patients to qualify, but if you set the  
12 threshold too low, then you haven't really changed the  
13 incentives.

14           Another question is how CMS would determine if  
15 practices are complying with this rule. One option would be  
16 to require that practices determine for themselves whether  
17 they meet the standard, based on criteria established by the  
18 Secretary, and this is how the in-office exception is  
19 currently enforced. Another option would be require that  
20 practices submit information on their revenue sources to  
21 CMS, which would then determine if they meet the standard  
22 for capitation.

1           Finally, I want to reiterate that although imaging  
2 has been used as an example here, the concepts could be  
3 applied to other in-office services.

4           I want to move on to some key objections that  
5 could be raised regarding any approach to limit the in-  
6 office exception.

7           First, it would require some patients to go to  
8 other providers for ancillary services, which, it could be  
9 argued, could lead to access problems, patient  
10 inconvenience, fragmentation of care and lower patient  
11 compliance. However, the hypothesis that patients who  
12 obtain ancillary services in physician services receive  
13 higher quality care or better outcomes has not been  
14 rigorously tested.

15           Second, many physicians have invested in  
16 equipment, staff and infrastructure to provide ancillary  
17 services, and they could argue that new restrictions on  
18 their ability to offer these services is unfair.

19           And, third, there could be a perception that  
20 limiting the types of ancillary services physicians can  
21 provide in their offices would interfere with the practice  
22 of medicine.

1           Next, I want to briefly mention some other  
2 approaches that have been or could be pursued to address  
3 concerns about physician ownership and volume growth. You  
4 could think about strengthening quality standards for  
5 providers, improving payment accuracy in the physician fee  
6 schedule and other payment systems, measuring and reporting  
7 on physician resource use, combining services that are  
8 furnished during the same encounter or episode of care into  
9 a single payment which Kevin and I talked about earlier, or  
10 efforts to encourage greater use of clinical guidelines and  
11 appropriateness criteria by physicians. The Commission has  
12 already done a lot of work in the first three areas.

13           So, to sum things up, the Commission has expressed  
14 concern about the volume growth of physician services. In  
15 addition, several commissioners have raised concerns about  
16 physician self-referral. An important provision on the  
17 self-referral law regulates the ability of physicians to  
18 provide many services in their offices, and we mentioned  
19 some ideas for modifying this exception.

20           We'd like to get feedback on whether we should do  
21 further research in this area or whether you'd like us to  
22 pursue other steps to address volume growth.



1 MR. HACKBARTH: Thank you, Ariel.

2 Could I just start with a clarifying question  
3 about page 4?

4 So, under the concerns, the concerns have to do  
5 with increased volume and appropriateness. Isn't one of the  
6 concerns also that it potentially skews the clinical  
7 decisionmaking? Ron has mentioned the example of radiation  
8 therapy and all of the patients is getting radiation therapy  
9 have cancer. So it's not like an imaging test that's  
10 totally unnecessary or of very marginal value.

11 But the issue might be is the cancer patient -- is  
12 the choice of therapy for the cancer patient skewed by the  
13 physician's ownership of one particular way to treat the  
14 problem? I think I would add that to the list of concerns  
15 about the way things work now.

16 So let me see hands for clarifying questions, and  
17 we'll start over here, Peter, first.

18 MR. BUTLER: I realize we're talking about all in-  
19 office exemptions, but we're using imaging as an example  
20 here. So remind me a little bit. We also put imaging at  
21 the highest growth of any. Could you separate that a little  
22 bit between the larger imaging CT/MRI which may be in an

1 orthopedic big practice versus a kind of bone density x-ray  
2 sitting in an internist's office, the smaller ticket items  
3 in terms of where the growth has occurred.

4 MR. WINTER: So, in general, there's been much  
5 more rapid growth in advanced imaging, including CT, MRI and  
6 PET, than in standard imaging and ultrasound.

7 MR. BERTKO: Ariel, I'm confused on how the  
8 capitation alternative would work in fee-for-service  
9 medicine. Are you saying that members would need to choose  
10 their radiologist or something and then get a capitated  
11 payment there, or is it just not going to work?

12 MR. WINTER: What we're suggesting is that to be  
13 eligible for the exception the practice would have to be  
14 capitated. Then, that is in order to be able to offer  
15 imaging studies or other designated health services in their  
16 offices, they would have to have a certain level of  
17 capitation, probably not 100 percent because you want to  
18 allow them to see some fee-for-service Medicare patients.

19 So it affects the practice itself, and then the  
20 patient would decide, choose a practice, and that could be  
21 one of the factors in their choice, but it wouldn't be a  
22 patient-level rule; it would be a practice-level rule.

1           MR. BERTKO: Okay. So I'm still confused, if this  
2 would mean that the practice was under a capitation contract  
3 with an MA plan, and then you assume the spillover would  
4 help control their usage in a fee-for-service environment.  
5 Is that it?

6           MR. WINTER: There are different ways to think  
7 about it. The rule could be based on all of their patients  
8 and all of their revenue or Medicare. So you'd be, in that  
9 case, Medicare, MA fee-for service.

10          DR. MARK MILLER: That is the concept.

11          MR. BERTKO: Okay, and you pick some threshold of  
12 capitated percentage. Okay.

13          MR. HACKBARTH: So, in essence, it would be on  
14 slide 3, you have the 3 key roles, and so the idea is there  
15 would be a fourth role, that the practice has to have a  
16 certain percentage of prepayment.

17          Clarifying questions?

18          DR. MILSTEIN: Ariel, has there been any studies  
19 that sort of examine? For me, this is a little bit  
20 analogous to coding creep. Right? I mean if you own it,  
21 you start to use it more as compared to before when you  
22 didn't own it or compared to your peers practicing the same

1 specialty that don't own.

2           Is there any attempt to kind of just quantify  
3 what, let's call it -- I don't know -- creep, let's call it  
4 for want of a better term, what that is by different types  
5 of self-owned, in-office owned ancillaries because, if so,  
6 then you could sort of intuit that you might be able to come  
7 up with something analogous to what CMS does in many other  
8 programs when there's creep. That is an induction  
9 inadvertently of behavior you don't want to encourage, but  
10 the reason it's induced is for good reasons.

11           It's Ron's point about it's more convenient for  
12 patients. It's maybe more efficient for doctors. So there  
13 are reasons why we might want to not eliminate the  
14 exception.

15           I mean this is too long a question. Let me focus  
16 it. Do we have information for these different in-office  
17 ancillary exceptions on the percentage by which volume tends  
18 to increase if you own it compared to if you don't own it?

19           MR. WINTER: Right. Most of the studies that have  
20 looked at this issue compared physicians who own it to  
21 physicians who don't, on imaging on lab tests or other main  
22 diagnostic tests that have examined, and they find a higher

1 use for physicians who own versus those who don't. There  
2 are questions about unmeasured severity.

3           So one study that we're aware of that was  
4 presented by Laurence Baker at the September, 2008 meeting  
5 did look at pre/post -- so what happens to practices if you  
6 compare their patterns of ordering of MRI before and after  
7 they acquired MRI equipment -- and found there was a  
8 significant increase. I don't recall the magnitude, and I  
9 can get that information to you.

10           We're also planning to do that kind of work  
11 ourselves with the database we constructed for the  
12 descriptive work that we presented to you last April and  
13 published in the June report.

14           DR. MILSTEIN: One more question, did you consider  
15 creep adjustment one of the options?

16           MR. WINTER: Could you flesh out a little bit what  
17 you mean by creep adjustment?

18           DR. MILSTEIN: Well, what you just described.  
19 Let's take the Laurence Baker kind of data. So you know  
20 that if you do a before and after comparison for different  
21 types of in-office ancillaries on a specialty match basis,  
22 there tends to be a certain volume surge. Let's call that

1 percentage increase, the creep.

2 Did you consider that as one of the policy  
3 options, that simply if a physician owned it there would be  
4 a payment adjustment to reflect what's known about the  
5 induced demand levels associated with owning it versus, in  
6 the same specialty, not owning it?

7 MR. WINTER: We can add that to the list to think  
8 about.

9 MR. GEORGE MILLER: Thank you. One technical  
10 question that I have, if we've measured the financial impact  
11 to the entire program on this business you've identified,  
12 where a physician or group of physicians had purchased  
13 equipment or lab equipment and used it, could you give me a  
14 global figure or do you have an idea what the global figure,  
15 the impact this could be?

16 MR. WINTER: Difficult to quantify. You'd have to  
17 make some assumption about the induced demand effect that  
18 Arnie was talking about. Once you have that, you then have  
19 to examine, okay, what percent of practices have invested in  
20 this equipment and are ordering that.

21 We've done that to a limited extent with the data  
22 set we have of the beneficiaries from the six market areas,

1 for imaging alone. But to do that for the whole program,  
2 across all the different services covered, would be a pretty  
3 big analysis.

4 MR. GEORGE MILLER: But this is a significant  
5 amount of money, you think?

6 MR. WINTER: I think for imaging, based on what we  
7 saw from the analysis we did last year, there's a fair  
8 amount of money here, if you look at the differentials and  
9 the proportion of physician ownership in those market. But  
10 I'm speaking from recollection here. I want to go back and  
11 look at the data.

12 MR. GEORGE MILLER: Thank you.

13 DR. CASTELLANOS: Carrying on with the example you  
14 use on imaging, you know the Commission has made significant  
15 recommendations. The data that you provide are up to 2007.  
16 The DRA kind of kicked in on 2007, and the data are  
17 available now.

18 Is there any way we could show that data, to see  
19 what effect we've had by some of the recommendations we've  
20 already made?

21

22 MR. WINTER: So the DRA went into effect on

1 January 1st, 2007, and our data go through the end of 2007.  
2 So we do see, in terms of some imaging studies, the volume  
3 started to level off, particularly for nuclear medicine, for  
4 example, and MRI. For other kinds of imaging that were  
5 affected by the DRA caps, CT mainly, the volume has  
6 continued to increase at a pretty rapid clip.

7 GAO looked at, examined the same question or  
8 examined this question directly. We have not examined it  
9 directly. GAO examined it directly, and they found that the  
10 volume in terms of numbers of services for the codes that  
11 were affected by the DRA cap grew almost 4 times as fast as  
12 codes that were not affected by the cap during 2007. So, in  
13 their view, access was not compromised by the effect of the  
14 DRA cap.

15 But, again, that was not our recommendation. I  
16 think you asked me about the effects of our recommendation.  
17 Are you referring to the equipment utilization assumption?

18 DR. CASTELLANOS: I'm referring to the data as of  
19 2007. There are a lot of things that have happened since  
20 then, and I wonder if we could get any data on what occurred  
21 since 2007.

22 MR. WINTER: Right. So, for the data inclusive of



1 2008, we'll be examining for the physician fee schedule  
2 update. I'm looking to Kevin to confirm that, and he's  
3 nodding. So we'll be bringing that forward in future  
4 meetings.

5 MR. HACKBARTH: Let me just follow up because I  
6 had a question similar to Ron's. So, in DRA, we have sort  
7 of an experiment, if you will, on the power of price change,  
8 on the spread of a particular type of equipment.

9 The first and most easily seen effect in our data  
10 would be changes in the growth rates of particular services,  
11 but a more powerful or a different type of indicator of  
12 whether this is having a big effect would be how many  
13 physicians have changed their minds about buying high-end  
14 imaging equipment as a result of this change in the price.  
15 Is there any way to get at that?

16 So the slowing of the growth rate may conceal  
17 somewhat the power of the tool. Does that make sense?

18 DR. BERENSON: We could certainly look at  
19 difference in place of service, which would be -- although  
20 the practices that had invested would probably have to  
21 uninvest.

22 There is anecdotal information on that which

1 suggests that there was a dramatic reduction, but that's  
2 anecdotal, a reduction in purchasing by practices that had  
3 been going on.

4 But, in any analysis, I think you would certainly  
5 want to look at place of service and see if there's a shift.  
6 Right?

7 MR. WINTER: I think you'd want to look at the  
8 number or proportion of practices that acquired equipment in  
9 each year and sort of look at how that's changed over the  
10 last couple of years.

11 DR. BERENSON: But just in claims data, I'm  
12 saying, which is look at the impact of, say, the DRA  
13 reductions in imaging where, in aggregate, the volume is  
14 still going up, less than it had been going up. You want to  
15 know where it's taking place.

16 MR. WINTER: I think, just to finish my thought  
17 there about looking at the number of practices investing,  
18 sort of new entrants to the market, let's say. It's a  
19 little bit difficult because a practice might have -- a  
20 number of practices might be -- there might be fewer  
21 practices in aggregate numbers, but they might be bigger  
22 practices because they might be combined and consolidating

1 in order to get the capital to purchase the equipment. So  
2 it's a bit hard to say, to interpret those results, but it's  
3 something we can think about.

4 DR. CASTELLANOS: Just a clarification, I think  
5 I've seen some data showing that the site of service, that  
6 it is beginning to change and going back out of the doctor's  
7 office into the hospital or into a radiation facility, x-ray  
8 facility.

9 DR. BORMAN: Ariel, on slide number 9, when you  
10 talk about strengthening the quality standards, is your idea  
11 there that that's primarily judged by some safety metric?  
12 Is it going to be by some sort of accuracy metric?

13 I'm a little unclear here what that might look  
14 like, just sort of as you start to think about it, because  
15 from my personal standpoint I think both those things would  
16 be important, that it's done properly, but also that the  
17 quality in terms of is this a test that then has to be  
18 repeated by somebody else because it didn't answer the  
19 question. That would be helpful, but I would not want to  
20 necessary base it on things like necessarily provider  
21 specialty or something like that.

22 Did you have thoughts about what quality standards

1 would be?

2 MR. WINTER: I was thinking here primarily of the  
3 recommendations we made on quality for imaging standards --  
4 I'm sorry, quality standards for imaging providers, which  
5 were not meant to be distinguished among specialties. They  
6 weren't meant to say, radiologists can do it but not  
7 cardiologists. However, they were designed to have a sort  
8 of baseline standards that would apply to the quality of the  
9 equipment, the qualifications of the technicians, the  
10 accuracy of the images that were produced and those sorts of  
11 things, as well as the qualifications of the interpreting  
12 physician.

13 So, thinking more in terms of accuracy as you've  
14 defined it and sort of baseline quality rather than  
15 distinguishing among specialties, but, again, this is  
16 something you guys could talk about, whether you want to go  
17 in a different direction or apply this to other kinds of  
18 services.

19 DR. BORMAN: Then, if I could just ask, the creep  
20 adjustment that Arnie brought up -- and maybe Herb can help  
21 me here and you from your HCFA days -- sounds a lot to me  
22 like a behavioral offset.

1           Currently, there is a behavioral offset in the fee  
2 schedule just about every year that sort of comes from some  
3 -- and I don't mean to offend, but -- kind of magic that I  
4 don't exactly understand. But it sort of pretty much  
5 applies across everyone because it does come typically at  
6 the conversion factor level.

7           So I think that what Arnie is suggesting, unless  
8 I've misunderstood it, is in fact a targeted behavioral  
9 offset. Am I understanding that correctly?

10           MR. HACKBARTH: Frankly, I'm not sure what you're  
11 saying. In estimating the budgetary impact of changes in  
12 the physician fee structure, the CMS actuaries do what they  
13 refer to as a behavioral offset, the general idea being that  
14 if you constrain fees or reduce it for a particular service,  
15 that might evoke the response of more of it to try to make  
16 up for the lost income.

17           But, in terms of how the fees are set overall, I  
18 don't know of -- there's a budget neutrality adjustment, as  
19 we discussed earlier, in terms of recalibration of RVUs. I  
20 don't know of any other behavioral offset that's done.

21           DR. MARK MILLER: That's exactly what I would have  
22 said, and I read Arnie's point as saying if you have two

1 physicians who are exactly the same, assume for the moment,  
2 except that one owns the machine and one doesn't, make  
3 literally adjustment in the payment rate, that reflects the  
4 fact that there is some implied or some induced utilization  
5 there.

6 But your run-through on the general induced  
7 utilizations -- generally, when you're scoring legislation  
8 and you change the fee overall, it's a factor that goes into  
9 the estimate. Some of the savings are lost because volume  
10 takes some of it back.

11 DR. MILSTEIN: This would be kind of analogous to  
12 making an equivalent adjustment for the in-office exception  
13 but doing it retroactively now that we realize that induced  
14 demand is a problem. In other words, it's analogous to  
15 that.

16 You're essentially saying, well, long ago, we  
17 allowed this in-office exception, and we know based on  
18 research such as Laurence Baker's that if you took a  
19 pre/post of the exact same physician's practice, pre/post,  
20 and compared to the rate of change of peers who don't own  
21 it, there's an induced demand.

22 We should have done it, to be perfectly parallel

1 to what's done in other aspects of policy. We didn't. We  
2 failed in this case to anticipate a dynamic effect. Now  
3 that researchers like Laurence Baker measured it for us, why  
4 not make such an adjustment retroactively?

5 DR. BORMAN: Then the last clarifying piece, if  
6 you go to, I think back toward your first slide, but it kind  
7 of almost doesn't matter, in the sense of I just reiterate  
8 that volume matters, not just the price, the unit service  
9 price.

10 Again, you have the two leading curves -- lab and  
11 imaging. They're somewhat different in the sense that the  
12 imaging has a high unit price whereas the lab has a high  
13 volume use. So I think, unless I've grossly misinterpreted,  
14 we need to be sensitive to that difference in the drivers if  
15 we're going to target or craft actions based on those, if  
16 that seems reasonable.

17 MR. HACKBARTH: Round two, comments.

18 MR. KUHN: Thanks. I think there's two areas that  
19 I think it would be useful for the Commission to look at, at  
20 least probe a little bit more.

21 The first has to do a little bit with the  
22 exception that deals with therapeutic versus diagnostic. I

1 think diagnostic is pretty clear, that this is an area that  
2 makes sense, but I'd like us to probe a little bit on the  
3 therapeutic side only from the aspect that there is  
4 anecdotal information. I think CMS received comments on  
5 this when they put this notion out in their rule a couple  
6 years ago, that Ariel talked about.

7           Is there an inducement there for the physician  
8 just to refer to the service they have in their office,  
9 where there might be other treatment modalities available,  
10 but there just is an incentive to go to the one that they  
11 have in their office? I'd really like us to look at that  
12 differentiation between therapeutic and diagnostic and see  
13 if there are any problems there that we ought to opine on.

14           The second area I think it's worth for us to look  
15 at is the time-based rationale. You know the purpose for  
16 this exception was the convenience. But say that someone is  
17 in seeing their physician and the physician says: Okay, I  
18 think you need an MRI. Go across the hall to see my  
19 assistant.

20           You go across the hall, and they say, I'll  
21 schedule you for next week.

22           I mean that really kind of takes away the notion



1 of a convenience. I think the idea when this was put  
2 together was the same-day service. I mean that was the idea  
3 here. So, if we're seeing a lot of things scheduled outside  
4 the window, I think that too is an area that we might want  
5 to look at and ultimately opine on as well.

6 MR. BUTLER: So, go back to seven, and these are  
7 the ones that you suggested, and actually I'm not sure I  
8 like them. I like your other list, but with the exception a  
9 little bit of the same day. Honestly, if a large orthopedic  
10 practice has an MRI in their office, I really don't have a  
11 problem with that if it's appropriately used.

12 If you could shift to nine, I just don't think  
13 capitation would work. The principle is right, but it's  
14 just not practical.

15 I think all of these are actually pretty good and  
16 worth pursuing. We've talked about them in the past.

17 Now I would add one, and I would reinforce what  
18 Herb just said. The treatment side errors of commission,  
19 I'm more worried about on the treatment side than over-  
20 utilizing diagnostic tools, with the exception of things  
21 like CT which also can do some harm if it's overused as a  
22 diagnostic tool. So things that can do harm to the patient,

1 potentially, if they're not used, should be an area of  
2 focus. In general, those are more on the treatment rather  
3 than the diagnostic side.

4 I'm wondering whether, under Measure and Report  
5 Physician Use, there's not a way to kind of specifically  
6 flag certain thresholds that would trigger an automatic  
7 review, which, by itself, would create some anxiety. I  
8 realize that would be controversial, but I think we'd learn  
9 a lot more. If there were certain patterns that were  
10 subject to review, it would inform us better about how we  
11 would then in fact address it through policies, advanced  
12 care, comparative effectiveness, in a more appropriate way.

13 I can name examples where I've seen, for example,  
14 oncologists who typically are involved more in chemotherapy,  
15 but when they in fact are sitting in a setting where the  
16 radiation is also there, it's not an either/or. Maybe it's  
17 both more often than otherwise would have been the case.

18 So there are situations like that. If we had the  
19 data, maybe it would help at least inform us and flag where  
20 we should be looking.

21 MR. BERTKO: If I can just add to what Peter said,  
22 I just went to a meeting where Washington State, in its

1 Medicaid program, is using just that kind of approach. I  
2 think it's on imaging as well. They do report cards, and,  
3 if you get an F on your report card, you are subject to  
4 prior authorization. There's a private reporting of that,  
5 and then the stick afterwards.

6 So there's a precedent, and it's Medicaid. It's  
7 another public program.

8 DR. CROSSON: Along some of the same lines, it  
9 seems to me again I must be in the two-by-two table mindset  
10 today, but it seems like we have another two-by-two table to  
11 think about. One is the distinction between whether we're  
12 talking about diagnostic, a diagnosis or a therapeutic  
13 intervention. The other one, the other axis is whether or  
14 not the diagnostic intervention or therapy is essentially  
15 always used or only sometimes used.

16 So, for example, if we have a diagnostic  
17 intervention that is pretty much always used, and I would  
18 think of in the orthopedic office, an x-ray of the knee.  
19 Generally always, for most conditions, you're going to get  
20 an x-ray of the knee. Trying to prevent that in some way  
21 would seem to me to be kind of interfering with the  
22 fundamental practice of that specialty, and I probably

1 wouldn't go near that box.

2           I think it's easier to think of when you're  
3 thinking about a diagnostic procedure that's only sometimes  
4 used because that's the area where, likely, the abuse occurs  
5 -- where it's more likely for someone, let's say, to be  
6 influenced to overuse something that's only used  
7 occasionally if the individual has that in the office and is  
8 likely to receive payment for that. It strikes me that that  
9 area is one area, and we've talked about it before, that you  
10 could deal with, with bundling, bundling of payment for  
11 those things.

12           In the therapeutic area, again, I think you've got  
13 sort of a distinction there. If you're talking about a  
14 physician engaging in a treatment or a therapy which is  
15 virtually always indicated for the condition that's being  
16 cared for, I mean I'm not sure how you can interfere with  
17 that. I mean that's basically in the interventionalist form  
18 of the practice of medicine. That's what that person is  
19 supposed to be doing, one would think.

20           It's in the fourth box where I think the most  
21 difficulty is, and that's where, if we use radiation  
22 therapy, Ron's example, that's where it becomes difficult.

1 It's where there's more than one treatment that could be  
2 used. Glenn, you said the same thing.

3 In fact, there may be untoward pressures to choose  
4 one treatment or the other based upon whether the individual  
5 happens to own the device that is engaged with that form of  
6 treatment and where I think some sort of subjective process  
7 has to take place to try to determine whether there's abuse  
8 or there isn't.

9 So I don't know if that's a helpful way to think  
10 about it.

11 DR. BERENSON: Just picking up on a couple of  
12 things that have been said, I appreciate the distinction  
13 between the therapeutic and the diagnostic, and the  
14 importance of really trying to figure out strategies, which  
15 I think are real difficult, around this issue of self-  
16 referring for a unique therapeutic approach when there are  
17 options.

18 But, while many of the, say, advanced imaging  
19 diagnoses don't cause patient harm, they sure drive up costs  
20 in appropriately.

21 So I guess this is a question. The Commission has  
22 a position recommending prior authorization for imaging?

1 No, it doesn't.

2 What has it said in this area?

3 DR. MARK MILLER: We've said a lot of things.

4 [Laughter.]

5 MR. WINTER: The first thing we said, we looked at  
6 this issue in our March, 2005 report, when we looked at  
7 private sector approaches to managing imaging. We  
8 considered a range of options, including prior  
9 authorization, and for prior authorization we felt at the  
10 time that the administrative costs were relatively high. We  
11 were concerned about the return in terms of reduced volume  
12 and the administrative burden.

13 Since then, we've had a couple of expert panels  
14 talk about this issue, 2007 and 2008, which featured, which  
15 included presentations from plans that are using prior  
16 authorization for imaging, from a former President of the  
17 American College of Cardiology talking about their approach  
18 to managing appropriateness of imaging.

19 Then last year, we Bruce Steinwald from GAO talk  
20 about their report on this, on the topic of imaging, where  
21 they recommended that CMS consider using front-end  
22 approaches to managing utilization such as prior

1 authorization.

2 DR. BERENSON: Okay. So I guess what I'd say is  
3 we've hadn't taken the leap, and I'm sympathetic of not  
4 doing it across the board without any distinguishing between  
5 who's appropriately referring and for whom it's going to be  
6 just a hassle for the patient and the doctor.

7 But it might be, as somebody over here said, we  
8 might target for practices that are generating a high volume  
9 of I'd start with advanced imaging and maybe a few other  
10 diagnostic procedures and say, at least initially, you'll  
11 then be in a prior authorization situation, and we'll gold-  
12 card you or whatever the term is if you're not abusing and  
13 come back every once in a while -- or, some targeted medical  
14 review. But I'd rather do it before the fact, prior  
15 authorization. So I would add that to the list.

16 MR. HACKBARTH: Another wrinkle on that, another  
17 version of that would be to say prior authorization for all  
18 high-end imaging in the case of self-referral. That's part  
19 of what you're buying into if you want to own the equipment  
20 and self-refer. You're also going to be carefully  
21 scrutinized.

22 DR. KANE: I think we should definitely try to

1 look into this. I'm not sure I want to -- I like the ideas  
2 of prior authorization.

3 I guess the other piece that no one has mentioned  
4 but makes me kind of nervous is that if someone has a high-  
5 cost piece of equipment they want to use, and Medicare  
6 starts pushing down, they might well decide to use it on the  
7 under-65 population.

8 So I'm wondering if this wouldn't be one of those  
9 things where we really should recommend that we partner with  
10 the private sector and also maybe even use them to help with  
11 prior authorizations or something, but that they should also  
12 be warned because when someone has got one of those cyber-  
13 knives and they want to use it to treat everything, they can  
14 go under 65 as well. If Medicare says I'm out of there, I'm  
15 going to put a lot of pressure on you or I'm going to  
16 exclude you, they could easily turn right around and use it  
17 on 58-year-olds.

18 So I just think you can't just leave the private  
19 sector vulnerable when you detect it.

20 MR. BERTKO: It's the other way around. The  
21 radiology benefit managers are already out in full blast  
22 with their Halloween costumes on.



1 DR. KANE: Well, for imaging, possibly, but I  
2 don't know about cyber-knives. I mean I don't know about  
3 some of the radiation technologies.

4 MR. GEORGE MILLER: I guess I would come down on  
5 the side of if we have evidence -- and I think you show in  
6 the report that we have evidence -- if a physician owns an  
7 advanced imaging piece of equipment, there's higher  
8 utilization, then I'm not sure prior authorization is strong  
9 enough, in my opinion.

10 I'm not sure if I'm ready to say that we should  
11 totally ban it, but I think prior authorization because it's  
12 just intuitive. It's fee-for-service. It's driving that  
13 additional utilization, how we put that genie back in the  
14 bottle.

15 I don't know what to recommend, but I want to be  
16 stronger than just prior authorization.

17 MR. HACKBARTH: Yes, the genie in the bottle is a  
18 big issue here. The options that you had before high-end  
19 imaging started to spread this way are different than the  
20 options you've got now. It would be very difficult, if not  
21 impossible, to outlaw it for people who have invested big  
22 bucks in this equipment, based on the rules prevailing at

1 the time.

2           Theoretically, that might be a good thing to do.  
3 Practically, it's going to be a real bear to accomplish. So  
4 you could try to limit the new people from buying it through  
5 pricing policy or whatever, and you can scrutinize those who  
6 already have it, but pretending that you can make it go away  
7 everywhere I'm afraid is not realistic.

8           MR. GEORGE MILLER: I think some combination of  
9 what you just said, Glenn, and then moving toward bundle  
10 payments or accountable care organizations as part of that  
11 solution.

12           MR. HACKBARTH: So you can use payment policy to  
13 influence the degree, the way in which it's used.

14           MR. GEORGE MILLER: Right.

15           DR. CROSSON: That's what I wanted to say. I mean  
16 even though they're in place you could still go diagnosis by  
17 diagnosis, and say don't bill for this MRI for this  
18 diagnosis because you're going to be getting a bundled  
19 payment for that diagnosis, and gradually expand the number  
20 of those diagnoses.

21           MR. GEORGE MILLER: Especially when, as Peter  
22 said, patient harm is one of the issues by over-utilization.

1 DR. CASTELLANOS: Obviously, I have a couple of  
2 things to say.

3 One is I'm struggling with the therapeutic and  
4 diagnostic. I really am struggling like that, and I'd like  
5 just to talk first on diagnostic. I think a front-end  
6 approach maybe a good end, a good approach to that. I know  
7 that's what the private insurance is doing, and it's  
8 successful.

9 We had a panel here maybe two years ago, if some  
10 of you remember, and I think that's when the cardiologist  
11 was here. But we had a primary care doctor from Minnesota,  
12 who was in charge of the imaging issue there, and he used a  
13 concept of prior notification, and then there was a concept  
14 of prior utilization, getting, just notifying that it needs  
15 to be done. He said about a 20 percent effect on decrease  
16 in volume.

17 So something, it's less onerous. It's something  
18 we should look at it. I didn't say we should do it, but  
19 that may be just as good or something that's less onerous  
20 than prior approval.

21 The thing about radiation therapy, once the  
22 patient is referred to the radiation therapist, it doesn't

1 come under Stark anymore. He's not seeing the patient, and  
2 the real issue here is that we don't have any comparative  
3 effectiveness data.

4 He could use something like seeds for prostate.  
5 He could use IMRT. He could use the cyber-knife that Nancy  
6 mentioned, and now there's a proton beam which is hundreds  
7 of thousands of dollars. We don't have any data to show  
8 which is better or not, and we really need comparative  
9 effectiveness data.

10 It's going to be very hard to influence the  
11 behavior of the radiation therapist because that patient is  
12 already out of the Stark exception and into the patient.

13 Now getting back to the physician that owns the  
14 radiation equipment, first of all, I want to say I do not  
15 own any radiation equipment. I don't own it. I work with a  
16 radiation therapy group, but I do not own it. Okay?

17 We've noticed this in urology. One of the real  
18 serious things that we're seeing is to supplement people's  
19 incomes physicians are going into ancillaries. As I've said  
20 in the past, if I'm going to take care of patients today and  
21 tomorrow, I have to stay in business. And, sometimes to  
22 stay in business, it requires me to increase my income.

1           I don't have to tell you about reimbursement for  
2 physicians. Since 2001, we finally caught up. We had a 5  
3 percent cut then, and we finally caught up today. Based on  
4 the practice expense costs, it hasn't caught up. So,  
5 unfortunately, a lot of this over-utilization has been used  
6 maybe inappropriately to increase income to stay in  
7 business.

8           What I want to do with urology -- and I said  
9 something to Herb, and Herb mentioned this with another  
10 thing today -- is we would like to work with CMS, work with  
11 CMS doing a study with urology where we have the options of  
12 doing surgery, chemotherapy, nothing or radiation therapy,  
13 nothing being observation.

14           We're hoping our society can work with CMS and get  
15 a study like that done, so we can see what's actually out  
16 there because there's no data now on utilization on  
17 radiation therapy, and we do really need that data.

18           DR. BORMAN: Just trying to stick here with slide  
19 number 9, I would echo some of what Peter said earlier about  
20 some of those other slide options that I found less  
21 appealing than what is on here, and just a couple of things  
22 here.

1           Number one, I think we've always sort of espoused  
2 that, and there may be some details of what the standards  
3 are and so forth.

4           Number two, I think probably isn't specific just  
5 to this particular problem. We're already addressing.  
6 We've already just had the big several hour discussion about  
7 payment accuracy. So that's going to fall if we fix that in  
8 other arenas. Other than potentially a site of service  
9 adjustment, then that's going to fall out in some other  
10 work. I'm kind of looking for what is unique about this.

11           So the physician resource use, again, we're sort  
12 of looking at that and starting to look at that in another  
13 arena, and perhaps that report takes on an additional  
14 criterion of does this physician own ancillary services.  
15 Maybe that's something that comes out on the standardized  
16 RUR as that report evolves.

17           I think the last two probably are the ones that  
18 bring the most to bear, again, about considering, as Nick  
19 would have said, high-volume, high-cost disease episodes,  
20 working to look at those, both from the appropriate  
21 standpoint and what services typically come together, are as  
22 applicable here as they are in some of the other areas we've

1 talked about and probably where the biggest potential impact  
2 of this is.

3 I would throw out two cautions to some of the  
4 things that have been said. Number one, I guess I'm less  
5 sanguine about the diagnostic/therapeutic piece for a couple  
6 of reasons:

7 Number one, the increasing dose of ionizing  
8 radiation that patients are experiencing, including  
9 children, and what the downstream consequences of that will  
10 be.

11 Then, number two, when we do these things, we find  
12 incidental findings that generate huge dollar work-ups on a  
13 large number basis. For example, a CT scan of the abdomen  
14 has about a one in a thousand chance, ballparkish, of  
15 detecting in an adrenal gland abnormality. You aren't going  
16 to find that by physical exam, history or anything else.  
17 You're only going to find on the CT.

18 The screening recommendations to deal with that,  
19 because there are some potentially very bad diseases at very  
20 low frequency, now folds up into several thousand dollar  
21 easily to get it just the bare bones, so that the diagnostic  
22 piece does have some, at least, cost consequences and

1 potentially bad things for the patient who gets put into  
2 this mill of working up this incidental finding and comes to  
3 some intervention that maybe didn't need to be done in the  
4 first place, or at least an expensive diagnostic work-up  
5 that their co-pay and so forth has really been.

6           So I think the diagnostic piece is not quite so  
7 clean to me as maybe it is to some other folks.

8           The other thing was triggered by something that  
9 Herb said, about the going over there and scheduling it a  
10 week from now. I agree with you, there's something  
11 intrinsically kind of bothersome about that, but I also  
12 think we need to step back as we think about these ACOs or  
13 medical homes or whatever, that as we look at diagnosing or  
14 treating diseases, that you may want the one-stop shopping  
15 of scheduling things at that time shouldn't automatically  
16 disqualify you.

17           So, for example, I just throw out in my own world,  
18 if you went to the Mayo Clinic to get an evaluation  
19 potentially for primary hyperaldosteronism because it's a  
20 surgically correctable high blood pressure disease. It's  
21 important, day one, certain things happen; day two, certain  
22 things happen and so forth. So, by the end of day seven,



1 you've either had the diagnosis excluded or you've been  
2 fixed. That does have that, prospectively, we're going to  
3 do this on different days, but it comes out to a pretty high  
4 value for the patient package in terms of coming to closure.

5 So I think we just need to be a little bit careful  
6 about how we craft some of those things, that we don't get  
7 ourselves in a box relative to some of our future  
8 strategies.

9 MR. HACKBARTH: Okay, we're going to wind this up  
10 for today. I appreciate people's patience with our running  
11 over.

12 We will have a brief public comment period. I  
13 would remind people that we now have a new opportunity for  
14 people to comment on our work, and that is through the  
15 MedPAC.gov web site.

16 Hey, Jim, the way to get to that opportunity is  
17 how? Which buttons do you push?

18 DR. MATHEWS: The comment function is available at  
19 the same place that you find our meeting agenda. Each  
20 agenda item will have a box for you to submit comments via  
21 email.

22 We start soliciting comments at the time we post

1 the agenda, and we'll continue soliciting them for one week  
2 after the meeting.

3 MR. HACKBARTH: So please begin by stating your  
4 name and organization, and limit your comments to no more  
5 than two minutes. When the light comes back on, the two  
6 minutes is up. Thanks.

7 MS. LEE: I'm Gayle Lee, Director of Federal  
8 Payment Policy and Regulatory Affairs at the American  
9 Physical Therapy Association. APTA is a professional  
10 association representing more than 72,000 physical  
11 therapists, physical therapist assistants, and students of  
12 physical therapy.

13 I would like to take the opportunity to thank  
14 MedPAC for your interest in exploring the in-office  
15 ancillary exception to the Stark law and encourage you to  
16 look at physical therapy in addition to imaging. I know  
17 there was a lot of discussion of imaging today.

18 In recent years, there has been a dramatic  
19 increase in physician ownership of entities that provide  
20 physical therapy services. Under the in-office ancillary  
21 services exception, physician practices are legally able to  
22 open up multiple satellite offices that provide physical

1 therapy services with no physician on site at those  
2 satellite locations, and the physician practices are then  
3 able to refer to those satellite locations.

4           As you indicated during your discussion, there is  
5 an inherent financial conflict of interest with physician  
6 ownership in these entities to which they refer, and studies  
7 have indicated higher utilization and increased costs.

8           The in-office ancillary services exception was  
9 created to recognize that in some circumstances there is an  
10 enhanced patient convenience which may justify the risks  
11 presented by the inherent conflict of interest that exists.  
12 However, in our view, provision of physical therapy services  
13 by physician-owned practices is not more convenient for the  
14 patient. It is rare that a patient would begin to receive  
15 physical therapy services during a regularly scheduled  
16 physician visit. Instead, the patient makes a subsequent  
17 appointment and goes to the physical therapist, and there  
18 tend to be repeated and multiple sessions of physical  
19 therapy.

20           Therefore, to us perhaps the time-based approach  
21 that was mentioned earlier might make more sense as an  
22 opportunity to approach this issue.

1           APTA will be submitting more extensive comments,  
2 and we thank you for the opportunity once again to comment,  
3 and we look forward to providing additional information.

4           MS. McILRATH: I'm Sharon McIlrath from the AMA.  
5 I do not think in two minutes I can begin to address  
6 everything you talked about in two hours, so we will be  
7 putting some comments up, and I hope you will all read them.  
8 I will try to keep this briefer if you promise you will.

9           I just want to say that when you are talking about  
10 what the RUC does, you need to keep in mind that this is a  
11 group of people who know that there is a fixed pot of money.  
12 So any dollars that they give to one specialty or the time  
13 that is awarded in the discussion is coming out of someone  
14 else's pocket. And so there is a lot of discussion.

15           Also, as Kevin mentioned, they have done several  
16 screens to look at things that might be overvalued. One of  
17 those screens is high IWPUT, which is their word for high  
18 intensity per unit of time. So they are addressing it. The  
19 times are much better. They also have some packages of time  
20 that they put in for like a surgical procedure, the pre-  
21 service, so that it is becoming much more sort of standard  
22 and uniform across the times.

1           That being said, at least one of those things that  
2 was on your list, the CT of the pelvis, is on the list of  
3 things to be reviewed.

4           I wanted to just say on the colonoscopy I believe  
5 that one of the -- I don't remember the full debate about  
6 that, but I think -- I am sure that there is some difference  
7 in the two procedures because, one, the time that the RUC  
8 used includes moderate sedation as part of the time.  
9 Whether or not that eliminates or totally explains the  
10 difference I wouldn't want to say, but there is some  
11 difference in what is being discussed there.

12           Also, you need to keep in mind that it is a  
13 relative value scale, so that if colonoscopy is overvalued,  
14 it only matters if it is overvalued more than everything  
15 else. And if you take different studies, you can find a  
16 study that will say that almost anything is overvalued.

17           For the mid-level visit, the database includes 23  
18 minutes of time. There are studies that would tell you that  
19 that is more time than is generally spent today on a mid-  
20 level visit. And once you start mucking with that, as Karen  
21 mentioned, anything you do with the E&M has a much bigger  
22 increase -- or, I mean, a much bigger effect. So you could

1 be moving a lot of dollars around, and you could actually do  
2 harm to the primary care services if you are not careful.

3 On intensity, I think every physician thinks that  
4 what they are seeing, the patients have more illnesses, more  
5 co-morbidities. One thing to keep in mind is that on an E&M  
6 visit, you have different levels, and so you can bill a  
7 higher level, and we are seeing that in the volume data.

8 Now, there is a problem, which is that every time  
9 that number starts to creep up, the OIG or someone comes  
10 along the racks, and they are going to audit people when  
11 that is going up. So if you think that that -- and we do  
12 think that that is really is happening. One way that you  
13 could help primary care physicians is to sort of try to call  
14 off the dogs on that one.

15 As someone else said, you probably should look at  
16 this again after the new rule comes out because there are  
17 some significant changes at least proposed in that rule --  
18 about an 8- to 9-percent increase for internal medicine, and  
19 about an 11-percent decrease for radiology and cardiology.

20 And then, finally, I just wanted to suggest that  
21 if you look at the intensity levels over sort of the BETOS,  
22 the categories of service, as opposed to just picking out

1 individual services, I think what you would see is that it  
2 is not so different as if you just pick out one or two.

3           For instance, I think you would see that major  
4 surgery is about 17 percent higher than E&M and imaging is  
5 maybe 6 percent higher. So I would just encourage you to  
6 sort of look overall instead of at just the pieces, and then  
7 to say -- I mean, the RUC has also looked for different  
8 databases. The problem is you have got to have a database  
9 that is standard across everything as opposed to people  
10 picking and choosing. There have been some fairly heated  
11 discussions at the RUC about different databases and which  
12 databases you can use.

13           And then I guess, lastly, if any of you would like  
14 to have a lesson in how this stuff works, we would be happy  
15 to set you up with either the RUC staff or a RUC member to  
16 have further discussions.

17           MR. HACKBARTH: Thank you.

18           MS. WILSON: Hi, I'm Emily Wilson with the  
19 American Society for Radiation Oncology. I have a new  
20 retainer today so I can hardly talk, so we will be  
21 submitting comments to you.

22           ASTRO is the professional society for radiation

1 oncologists, and we are just really excited by the  
2 discussion today. We certainly have a lot of anecdotal  
3 information from our members that they believe that there is  
4 a significant problem related to self-referral with  
5 radiation oncology, in particular for prostate cancer  
6 patients, where you have several alternatives that are  
7 available and there is steorage to radiation therapy by non-  
8 radiation oncologists. And so we are heartened by this  
9 discussion, and we will submit comments. It is late. And  
10 thank you for your work.

11 MR. HACKBARTH: We are adjourned until 8:30  
12 tomorrow morning.

13 [Whereupon, at 6:02 p.m., the meeting was  
14 recessed, to reconvene at 8:30 a.m. on Friday, October 9,  
15 2009.]

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MEDICARE PAYMENT ADVISORY COMMISSION

PUBLIC MEETING

The Horizon Ballroom  
Ronald Reagan Building  
International Trade Center  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C.

Friday, October 9, 2009  
8:30 a.m.

COMMISSIONERS PRESENT:

GLENN M. HACKBARTH, J.D., Chair  
FRANCIS J. CROSSON, M.D., Vice Chair  
MITRA BEHROOZI, J.D.  
ROBERT A. BERENSON, M.D.  
JOHN M. BERTKO, F.S.A., M.A.A.A.  
KAREN R. BORMAN, M.D.  
PETER W. BUTLER, M.H.S.A.  
RONALD D. CASTELLANOS, M.D.  
MICHAEL CHERNEW, Ph.D.  
THOMAS M. DEAN, M.D.  
JENNIE CHIN HANSEN, R.N., M.S.N., F.A.A.N  
NANCY M. KANE, D.B.A.  
HERB B. KUHN  
GEORGE N. MILLER, JR., M.H.S.A.  
ARNOLD MILSTEIN, M.D., M.P.H.  
WILLIAM J. SCANLON, Ph.D.  
BRUCE STUART, Ph.D.

	2
AGENDA	PAGE
Caring for Medicare beneficiaries with mental illnesses	
-- Dana Kelley	3
Provider consolidation and prices	
-- Anne Mutti, Jeff Stensland	54
Panel discussion: Provider consolidation and prices	
-- Martin Gaynor, Professor of Economics and Public Policy, Carnegie Mellon University	73
-- Paul Ginsburg, President, Center for Studying Health System Change	83
Public Comment	163

## 1 P R O C E E D I N G S

2 MR. HACKBARTH: Good morning everybody.

3 Because we have a guest at the end of today, and  
4 because people want to catch airplanes, I'm going to do a  
5 better job of keeping us on time and the first step is to  
6 start on time.

7 Our first topic this morning is caring for  
8 medicare beneficiaries with mental illnesses and then we  
9 have two sessions related to provider concentration and  
10 related pricing issues.

11 Dana.

12 MS. KELLEY: Good morning. In January, 2005 CMS  
13 changed the method of payment for inpatient psychiatric  
14 facilities from a cost-based systems to a perspective  
15 payment system. Last fall I presented an overview of  
16 Medicare's coverage and payment policies for inpatient  
17 psychiatric services. My presentation this morning will be  
18 the first in a series of discussions we'll have as we  
19 prepare for a chapter on IPF care in the June 2010 report.

20 The June chapter will consider the adequacy of  
21 Medicare's payments for IPF services as a prelude to a  
22 future March report update chapter. But in our previous

1 discussion of IPF care, several of you pointed out the need  
2 to think about this issue more broadly. Peter, for example  
3 you reminded us that there's a much bigger story behind the  
4 IPF stay. And Arnie pointed out that in many cases the IPF  
5 stay is a consequence of failure on the ambulatory side. So  
6 our June report chapter will also consider inpatient  
7 psychiatric services in a broader context of general mental  
8 health services for beneficiaries with mental illnesses.

9           As you know the Commission's approach to assessing  
10 payment adequacy hinges on considerations of changes in the  
11 volume of services, changes in the capacity and supply of  
12 providers, beneficiaries' access to care, changes in the  
13 quality of care, providers' access to capital, and  
14 Medicare's payments and providers' costs. In the Spring  
15 we'll bring new information on providers' access to capital  
16 and Medicare's payments and providers' costs.

17           Today I will provide you with some information on  
18 volume and supply and then we'll discuss some of the broader  
19 issues related to access to care and quality of care in  
20 IPFs.

21           First, let's talk about volume and spending. IPF  
22 spending reached \$3.8 billion in 2007. Spending has grown

1 almost 7 percent since the PPS was implemented, but the  
2 number of cases has declined about 6 percent. The decline  
3 in cases is due in part to growing enrollment in Medicare  
4 Advantage, which has decreased the number of beneficiaries  
5 enrolled in fee-for-service. But even controlling for fee-  
6 for-service enrollment we still see decline in cases of 2  
7 percent. About a third of beneficiaries admitted to IPFs in  
8 2007 had more than one IPF stay during the fiscal year.

9           The most frequently occurring diagnosis accounting  
10 for almost three-quarters of IPF discharges was DRG 430  
11 psychosis, which includes schizophrenia and bipolar  
12 disorder. The next most common discharge accounting for 8  
13 percent of IPF cases was DRG 12, degenerative nervous system  
14 disorders including such illnesses as Alzheimer's Disease,  
15 ALS and Parkinson's Disease. Among the top diagnoses,  
16 degenerative nervous system disorders experienced the most  
17 growth between 2004 and 2007, rising 29 percent.

18           As you know inpatient psychiatric care can also be  
19 furnished in so-called scatter beds, that is in acute  
20 hospital beds that are not within Distinct Part Psychiatric  
21 Units. Medicare pays for scatter bed services under the  
22 acute hospital PPS. We looked at scatter bed cases in 2007

1 to see if some of the decline in volume of IPF services was  
2 due to a shift to scatter bed care. We found here, too,  
3 that the volume of services has declined, but only a third  
4 as much as in IPFs. And on a per fee-for-service  
5 beneficiary basis the number of scatter beds actually has  
6 grown 1.5 percent since the IPF PPS was implemented.

7           However, the pattern of care in scatter beds  
8 differs markedly from that seen in IPF, which suggests that  
9 the mix of patients may be different and therefore not  
10 directly comparable. As you can see here the distribution  
11 of diagnoses is quite different. This slide shows the top  
12 five scatter bed diagnoses and the share of those diagnoses  
13 in IPFs in 2007. You can see that scatter bed patients are  
14 far less likely to be psychotic, which is as we would expect  
15 since most acute care hospitals cannot accommodate  
16 involuntary admissions in scatter beds due to inadequate  
17 security. But these diagnosis patterns also suggest that  
18 patients admitted to scatter beds may have underlying  
19 medical conditions that are more appropriately treated in  
20 the acute care hospital.

21           For example, beneficiaries admitted to scatter  
22 beds are far more likely to be diagnosed with degenerative

1 nervous system disorders and alcohol or drug abuse  
2 complicated by comorbid conditions. We also found that  
3 patients in scatter beds tend to be older than those in  
4 IPFs. They're almost twice as likely to be age 80 and  
5 older. In addition, lengths of stay in scatter beds are  
6 much shorter than in IPFs. This may be because some  
7 patients may be admitted to scatter beds for a brief  
8 stabilization period before being discharged to a longer  
9 term setting. Scatter bed patients are much more likely  
10 than IPF patients to be discharged to a SNF, for example.

11           Some part of the difference in length of stay may  
12 reflect differences in payment in the two settings. Scatter  
13 bed cases are paid on a per discharge basis under the  
14 hospital PPS, while IPF cases are paid on a per diem under  
15 the IPF PPS.

16           In evaluating changes in the volume of IPF  
17 services furnished, it will be important to consider other  
18 changes in the use of health services that might affect  
19 admissions for acute mental illnesses. Among these services  
20 are psychotropic drugs, outpatient mental health services,  
21 and partial hospitalization. Psychotropic drugs including  
22 antidepressants, antipsychotics and anti-anxiety agents are

1 the predominant form of treatment for many mental health and  
2 substance abuse disorders.

3           Use of these drugs has grown sharply over the past  
4 decade and implementation of Medicare Part D may have  
5 increased beneficiary access to them by reducing out-of-  
6 pocket spending. Greater access to these drugs may reduce  
7 the need for inpatient psychiatric care. Other outpatient  
8 mental health services include psychiatric evaluation,  
9 diagnostic testing, psychotherapy and medication management.

10           Until recently Medicare required cost-sharing of  
11 50 percent for outpatient mental health services, which  
12 likely discouraged use of the services. MIPPA, in 2008,  
13 requires that the cost-sharing for Medicare beneficiaries  
14 using mental health related treatments on the outpatient  
15 basis should be reduced to 20 percent by 2014. That  
16 reduction should improve access to outpatient mental health  
17 services, which in turn may reduce the need for inpatient  
18 psychiatric care.

19           Medicare also covers partial hospitalization  
20 services if the beneficiary would otherwise require  
21 inpatient psychiatric care or if the beneficiary has been  
22 recently discharged from inpatient care and needs partial



1 hospitalization to avoid a relapse. We plan to examine  
2 changes in the use of these services as part of our  
3 evaluation of changes in IPF volume.

4           Now let's look at IPF supply. Nationwide the  
5 number of IPF beds has remained fairly constant since the  
6 PPS was implemented. But we are seeing shifts in where  
7 those beds are located. Despite growth in the number of  
8 Critical Access Hospitals with psychiatric units, the  
9 overall number of beds in rural areas has declined. The  
10 number of beds in distinct-part units has also declined.  
11 Although as you can see on the lefthand side of the slide,  
12 these units still care for 72 percent of all IPF cases. We  
13 also see that the number of beds in not-for-profit IPFs has  
14 declined 10.5 percent, while the number of beds in  
15 proprietary IPFs has grown 12 percent.

16           Because an inpatient psychiatric stay is in many  
17 cases a failure of outpatient treatment of mental illness,  
18 it is appropriate to consider whether beneficiaries with  
19 mental illness have adequate access, not just to inpatient  
20 services, but to the outpatient care that they need.

21           More so than in general medical care, access to  
22 mental health care is a function not just to provider

1 availability and patient ability to pay, but also patient  
2 willingness and ability to seek care. The stigma associated  
3 with psychiatric diagnosis and treatment prevents many  
4 people with mental health disorders from pursuing care. In  
5 addition, the nature of mental illness is such that some  
6 sufferers do not perceive a need for care or if they do,  
7 have difficulty navigating the health care system and  
8 maintaining a treatment regimen.

9           Some people with mental illnesses don't pursue or  
10 continue to treat because of intolerable or undesirable side  
11 effects from medication and ethnicity, race, culture, and  
12 language barriers can also play a role in a patient's  
13 willingness and ability to seek care. In part because of  
14 these issues, research suggests that treated prevalence of  
15 mental health conditions remains well below underlying  
16 population prevalence.

17           Several recent studies have found that minorities  
18 reported overall lower rates of lifetime mental health  
19 disorders than whites. These findings may not be  
20 definitive, however, because ethnicity, race, culture and  
21 language may affect a person's behavior as well as one's  
22 reporting of symptoms and the interpretation of those

1 symptoms by others. Also, accurate measurement of racial  
2 disparities is undermined because community surveys  
3 generally exclude the homeless and the incarcerated  
4 populations whose members are disproportionately minority  
5 and known to have high levels of mental illness.

6           When minorities do become mentally ill,  
7 researchers have found that they are less likely to receive  
8 needed care in part, because they are more likely than  
9 whites to delay or fail to seek mental health treatment.  
10 But minorities who do seek that treatment are more likely to  
11 receive poor quality care, they are more likely to be  
12 misdiagnosed, and less likely to receive appropriate  
13 evidence-based treatments for their conditions. These  
14 disparities may help explain why African Americans who have  
15 mental health disorders tend to have more persistent illness  
16 compared with their white counterparts.

17           We looked at admissions to IPFs by patient race.  
18 The racial composition shown here looks disproportionately  
19 minority, but it reflects that of Medicare's under 65  
20 population. In 2007 African American beneficiaries  
21 represented almost 18 percent of IPF patients, 2.5 percent  
22 of patients were of Hispanic origin. Diagnosis patterns do

1 differ by race. Minorities are more likely to be admitted  
2 for psychosis than whites are and they are less likely to be  
3 admitted for degenerative nervous disorders. In part, this  
4 reflects the fact that minorities admitted to IPFs tend to  
5 be younger than white IPF patients.

6           When considering access to mental health services,  
7 dual eligibles merit special attention. These beneficiaries  
8 by virtue of their eligibility for Medicaid coverage tend to  
9 be poor and to report lower health status than other  
10 beneficiaries. They're also more likely than the rest of  
11 the Medicare population to suffer from mental illness and  
12 cognitive impairment. Approximately 60 percent of disabled  
13 dual eligibles and 20 percent of elderly dual eligibles have  
14 mental disorders.

15           Dual eligibles have coverage for mental health  
16 care, but they may still have difficulty accessing the care  
17 that they need. Medicaid is responsible for covering  
18 Medicare coinsurance requirements for these beneficiaries.  
19 But state Medicaid programs do not have to pay coinsurance  
20 if Medicare's reimbursement for the service meets or exceeds  
21 the state's Medicaid rate. Total payment to mental health  
22 providers may therefore be limited to the Medicaid

1 reimbursement rate, which for mental health services is  
2 generally very low relative to Medicare. As a result mental  
3 health providers may choose to limit the number of dually  
4 eligible beneficiaries they treat or to not treat them at  
5 all.

6 Under Medicare Part D, dual eligibles may now have  
7 better access to psychotropic drugs. But navigating a new  
8 drug plan may pose difficulties for dual eligibles with  
9 mental illnesses. Shinobu and Joan told us last month that  
10 beneficiaries receiving the low income subsidy including  
11 duals report less familiarity with their drug plans under  
12 Part D than do non-LIS beneficiaries. Dual eligibles with  
13 impaired decision-making ability may have even greater  
14 difficulty understanding their plans.

15 Coordinating coverage and payment policies across  
16 Medicare and Medicaid may be a challenge for dual eligibles  
17 and their health care providers. The challenges may be  
18 complicated by the fact that dual eligibles may have access  
19 to rehabilitative and psycho-social services through other  
20 state and local agencies.

21 The Commission has noted before that many coverage  
22 and payment issues for this population could be alleviated

1 if duals were enrolled in one integrated plan that covered  
2 both Medicare and Medicaid services. This integration has  
3 occurred in demonstration projects as you know, such as PACE  
4 and in Medicare Advantage Special Needs Plans. However,  
5 these plans serve only a small fraction of dual eligibles  
6 and none focuses on care for people with mental illnesses.

7           Finally, let's consider quality in the IPF  
8 setting. In the current environment assessing the quality  
9 of care received by Medicare beneficiaries and inpatient  
10 psychiatric facilities is difficult. There are a few  
11 meaningful, frequent, and easily collectible clinical  
12 outcomes measures that have been assessed for validity and  
13 reliability. Even if these measures did exist, CMS lacks  
14 the information it would need to adjust patient scores for  
15 severity of illness. There is no standard assessment tool  
16 used in IPFs.

17           Industry groups have been pursuing the development  
18 of process measures such as proper intake and assessment  
19 procedures, discharge and aftercare planning, use of  
20 restraints and seclusion, and appropriate drug regimens.  
21 But Medicare cannot use these types of measures because the  
22 information is not available on claims data.

1           In addition, by virtue of their Medicare  
2 eligibility most of the beneficiaries cared for in IPFs are  
3 chronically mentally ill. Effective treatment is ongoing,  
4 continuing long after a patient is stabilized and discharged  
5 from the IPF. So the IPF may have relatively little control  
6 over patient outcomes in the longer term.

7           Improvement in the overall quality of care  
8 received by beneficiaries with mental illnesses may require  
9 a more coordinated approach than is typically found under  
10 Medicare fee-for-service. The Commission has recommended  
11 that CMS establish a medical home pilot program for  
12 beneficiaries with chronic conditions, including chronic  
13 mental illness, to assess whether beneficiaries with medical  
14 homes receive higher quality, more coordinated care without  
15 incurring higher Medicare spending. Although a medical home  
16 model for collaborative mental and medical health care may  
17 prove cost effective from a societal perspective many of the  
18 benefits of better coordinated and integrated care for  
19 people with mental illnesses may accrue outside the health  
20 care system.

21           For example, through improved employment outcomes  
22 or reduced need for social services.

1           So some analysts believe that targeted financial  
2 incentives might be necessary to induce providers to develop  
3 a type of medical home for people with mental illnesses.

4           So in summary, since the IPF was implemented IPF  
5 cases declined about 2 percent controlled for fee-for-  
6 service population. Degenerative nervous system disorders  
7 have increased 29 percent. There's been little change in  
8 overall supply of IPF beds, although there's been a change  
9 in the distribution of those beds. Scatter bed cases  
10 increased 1.5 percent, which may be taking up some of the  
11 decline we've seen in the IPF setting. Part D drugs may  
12 improve access to psychotropic medications and MIPPA reduced  
13 cost-sharing for outpatient mental health services.

14           Finally, we know that access to mental health care  
15 is complicated, particularly by patient willingness and  
16 ability to seek care and by ethnicity, race, culture, and  
17 language barriers that exist, and we have few reliable  
18 quality measures. So now if anyone has any comments about  
19 this presentation that will be helpful to us. Also,  
20 information you would like us to pursue in the future and  
21 I'll just turn it over to you.

22           MR. HACKBARTH: Thank you, Dana. Good job.



1           So let me see hands for first round clarifying  
2 questions. We'll start with Karen.

3           DR. BORMAN: If someone were admitted to a scatter  
4 bed and then, for whatever reason, was then moved to the  
5 sequestered facility part of the institution, how would they  
6 look? How would they count in this? Do they end up  
7 counting in the -- staying in the scatter bed, sort of  
8 however you got labeled when you got admitted is how you  
9 stay or would they transition to looking as if they had come  
10 directly into a dedicated in-hospital unit?

11           MS. KELLEY: It would be a discharge from the  
12 scatter bed and then an admission to the IPF unit.

13           DR. BORMAN: Do we have any way of every, at some  
14 point, capturing that number as a potential group where  
15 there might be quality or questions? Some of them would be  
16 very appropriate I imagine.

17           MS. KELLEY: Sure, I see what you are saying.

18           DR. BORMAN: You had to park somebody there,  
19 because there was no bed. You put them with a one-on-one  
20 sitter, whatever those needs needed to be, but it seems like  
21 there probably is at least on some diagnosis-adjusted  
22 methodology, some level in there that is okay and maybe that

1 2X that level is not okay. Just looking for things that  
2 would relate to the data you've already shown us that we  
3 might morph into an assessment of what's going on here that  
4 might reflect quality.

5 Just a thought.

6 MS. KELLEY: It's something we could look into. I  
7 think we would have to link up the claims data for that, but  
8 it's certainly something we can look into to.

9 DR. STUART: You make several statements in here  
10 in terms of increased accessibility because of Part D. Do  
11 you have plans to do a data analysis of that question?

12 MS. KELLEY: For this analysis, no. That would be  
13 a much bigger undertaking. I don't know if Joan has any  
14 plans in the future.

15 DR. SOKOLOVSKY: [off microphone] I don't know  
16 that we have any plans to separately look at that issue, as  
17 opposed to our ongoing Part D analysis. But it's certainly  
18 possible.

19 DR. STUART: I have some ideas about that and I  
20 will wait until the second round.

21 DR. CASTELLANOS: When you talked about access to  
22 mental health you talked about provider availability. Is

1 that a workforce problem?

2 MS. KELLEY: The reading that I've done suggests  
3 it's a very complicated problem. There does appear to have  
4 been a decrease in the number of physicians who are  
5 providing therapy services, but at the same time there has  
6 been an increase in non-physician providers. There's also  
7 concern that researchers have raised about appropriate  
8 training for treatment of people with chronic mental  
9 illnesses. So it seems to be a very complex issue and so  
10 I'm not really sure how much of a workforce problem it is.

11 DR. CASTELLANOS: I'd like to pursue that on level  
12 two.

13 MS. KELLEY: Okay.

14 MR. GEORGE MILLER: You made a comment that the  
15 minority population is more likely to receive poor quality  
16 care in spite of evidenced-based medicine. To that extent  
17 can you give me just for clarity, I'll talk about that in  
18 round two, but the magnitude of the number is it 51 percent  
19 or is it 90 percent when you said it's more likely? Do you  
20 remember the statistics?

21 MS. KELLEY: Offhand I don't remember, but I can  
22 look up that information for you and get it to you.

1           MR. GEORGE MILLER: And then just quickly on page  
2 12 the slide about dual eligibles, do you have the  
3 demographic information for dual eligibles also since they  
4 are less likely to get adequate care?

5           MS. KELLEY: I don't have it with me.

6           MR. GEORGE MILLER: I saw that. I'm wondering if  
7 you have it for dual eligibles and my follow up question, I  
8 think I will do it in round two has to deal with are there  
9 disparities in the dual eligibles as prevalent as they seem  
10 to be the larger population.

11          MS. KELLEY: I don't know that I have the answer  
12 for that today, but it's something I can look into.

13          MR. GEORGE MILLER: Thank you.

14          DR. MILSTEIN: In the current design of the CMS  
15 medical home pilot, is there any form of evaluation or  
16 certification of the capability of the medical home to  
17 better diagnose and treat this category of problems?

18          DR. MARK MILLER: I think Cristina is the person  
19 who has the most information on that, but I have to say in  
20 all of my discussions and what I'm aware of there is not.

21          MS. KELLEY: I don't think so.

22          DR. BERENSON: I have two questions. One is do

1 you know off the top the payer mix to IPFs, Medicare,  
2 Medicaid, private, self pay?

3 MS. KELLEY: Off the top of my head I do not, but  
4 I do know, well I shouldn't say I know this. I have read  
5 that Medicare represents about 30 percent of IPFs payments.

6 DR. BERENSON: So it's sort of the overall  
7 average.

8 A second question, I actually see ACOs as  
9 promising or more promising as the entity that could do a  
10 better job. Do you know if there is literature around the  
11 performance of well-established, multispecialty groups or  
12 IPAs how they deal in this issue?

13 MS. KELLEY: I can look into that. I have read a  
14 few things but I don't know sort of how useful they will be  
15 so I will look into that for you.

16 DR. BERENSON: Thank you.

17 MR. BERTKO: Dana, I'm a little confused on one of  
18 the subcategories of the mental health ones, which is the  
19 degenerative diseases which I'm thinking of as -- at least I  
20 have interpreted as Alzheimer's, dementia, and things like  
21 that. So I can think of at least three categories where  
22 people fall into, which is this one into nursing homes being

1 institutionalized and then we've heard reports that many of  
2 them are in hospice as well.

3           And so, I'm curious on, you know, is it true that  
4 people could equally fall into one of those three categories  
5 or are there more people of graver illness in the IPFs? Do  
6 you know how that breaks out and why people are channeled to  
7 one versus another?

8           MS. KELLEY: I don't know why. I have spoken with  
9 some analysts who think that, in many cases the placement of  
10 people with Alzheimer's disease for example in IPF units is  
11 perhaps not appropriate and is related to a lack of  
12 experience in treatment and treating these conditions in  
13 nursing homes. So that may be something for us to look  
14 into.

15           The rise in the number of these patients in IPF  
16 settings, you know, certainly raises one's interest in the  
17 issue.

18           MR. BERTKO: Just as a follow up, I note that  
19 while your charts here show 8 percent in the IPFs, I think  
20 it was 25 percent in the scatter bed.

21           MS. KELLEY: Yes.

22           MR. BERTKO: Following the assumption that people

1 get into a scatter bed first and then they are discharged,  
2 that sounds like maybe there is some room for channeling  
3 there almost akin to how Bob was suggesting some care  
4 coordination could help with that.

5 MS. KELLEY: Okay.

6 MS. HANSEN: Actually, my question was exactly  
7 John's first question because I tied it back to hospice and  
8 the fact that on the same chart that share of population  
9 that is 25-plus percent is disproportionately 80-plus, so it  
10 does seem to have that theme. I definitely would like to  
11 kind of look under that a little bit more, relative to even  
12 the coding process.

13 MS. KELLEY: Okay.

14 MR. BUTLER: I was surprised, if I read it right,  
15 that 64 percent of the Medicare beneficiaries in IPFs are  
16 under 65, is that right?

17 MS. KELLEY: Yes.

18 MR. BUTLER: Almost two-thirds.

19 MS. KELLEY: I didn't show this before, but I have  
20 a little break down here of IPF discharges by age.

21 MR. BUTLER: You got my attention, two-thirds  
22 which says to me that obviously the various distinct-part

1 units or scatter beds or IPF, they really are treating  
2 significantly different populations as you point out.

3 MS. KELLEY: Yes.

4 MR. BUTLER: And some of it is age, some of it is  
5 diagnosis. So it's the distinct units which are paid so  
6 miserably are being phased out and you have a 7 percent  
7 decline in the last three years. I would be interested to  
8 have any sense of where those people are landing, if at all.  
9 I know that the volume down in the IPFs themselves, too but  
10 maybe it would have been down even more. I don't know.

11 MR. KUHN: One quick question. On page 13 of your  
12 slide deck, you talked about the efforts to begin trying to  
13 get quality measures and capture some information in this  
14 area and you talked about some of the areas that people are  
15 looking at. But you didn't mention this and I was curious,  
16 are they also looking at a CAHPS survey possibility for IPFs  
17 as well?

18 MS. KELLEY: I don't know. That's something I  
19 will look into.

20 MR. KUHN: Thank you.

21 MS. BEHROOZI: In the paper, you mentioned that  
22 the Surgeon General and others have recommended that



1 disparities in mental health care be addressed in part and  
2 the first item is reducing financial barriers to care. And,  
3 you know, in the private sector undergoing the transition  
4 mandated by the Mental Health Parity Act has made us more  
5 aware of these things. So seeing that beneficiaries were  
6 sharing 50 percent or are right now, sharing 50 percent of  
7 the cost of outpatient and that's going to go down to 20  
8 percent by 2014, makes me wonder what the other components  
9 of additional costs relative to, you know, medical and  
10 hospital benefits are.

11 Do you have sort of a list of how their inpatient  
12 cost sharing, which I saw in a footnote but I didn't have  
13 time to digest it, how that relates to regular inpatient  
14 cost sharing or drug cost sharing? Maybe that's more of the  
15 analysis that you don't have done now. But do you have a  
16 sense of that?

17 MS. KELLEY: No. That's something we'll have to  
18 look into.

19 MR. HACKBARTH: Round two questions and comments.  
20 Bruce.

21 DR. STUART: I'd like to follow up briefly on the  
22 issue of using Part D data to better understand how these

1 people are being treated and there's a long-term and short-  
2 term aspect to this.

3           In the long term it would be really interesting to  
4 see whether the decrease in cost sharing on psychotherapy,  
5 and how that works in terms of increased accessibility to  
6 antidepressants and other antipsychotics, other medications  
7 used by these individuals. It's not that I'm not trying to  
8 set priorities for the Commission in this regard, but I  
9 think it's pretty difficult to understand what's happen with  
10 respect to treating these people without the Part D data and  
11 just simply saying that there's increased accessibility  
12 doesn't help, I think, a lot from a policy standpoint,  
13 particularly when we've got the data to do it.

14           The second part of this is that the underlying  
15 etiology of these conditions is not at all well understood  
16 and there's some thinking that the underlying causal factors  
17 also are associated with other common chronic diseases and  
18 we certainly know from empirical analyses that there is a  
19 strong correlation between having certain chronic conditions  
20 and having a depression, just not sure which causes which or  
21 whether there's some common underlying cause but nonetheless  
22 they co-occur.

1           And so, simply treating mental illness is really  
2 only part of the issue. The other part is how are the  
3 comorbid conditions being treated, and we just finished up a  
4 study for CMS which finds that after Part D was implemented,  
5 that, in fact, there were still differences in terms of  
6 treatment for other chronic conditions for people who had  
7 depression, and, so, it's not just looking at depression  
8 medications, it's also looking at medications for those  
9 co-occurring diseases.

10           And then I thirdly and lastly would follow-up on a  
11 point that John made, and that is where these people are.

12           Now, since many of them are under 65, one assumes  
13 that they're not in nursing homes, but we just don't know,  
14 and it would be really interesting to see where IPF patients  
15 in particular are coming to and where they're going, and I  
16 think that's --

17           MS. KELLEY: The majority of IPF patients are  
18 discharged home.

19           MR. STUART: Right.

20           MS. KELLEY: So, most of them are not residing in  
21 facilities.

22           DR. STUART: Well, in this particular case, we

1 don't know what "home" really means. I think that's a--

2 MS. KELLEY: Exactly. Exactly.

3 DR. STUART: Right. Okay, but the Part D thing, I  
4 would like to -- and we could talk about that afterwards.

5 DR. CASTELLANOS: Just making a couple of  
6 statements. Being in the practice world of medicine, this  
7 is one of the most vulnerable groups, poorly-managed groups  
8 in the Medicare System.

9 Access to care, at least in my community, is  
10 almost non-existent. You cannot get a psychiatrist to come  
11 to the hospital, you can not get a psychiatrist to cover the  
12 emergency room, and when I make a referral like Tom or any  
13 physician makes a referral, usually, you just can write or  
14 give a telephone number. I have to call and almost beg to  
15 get these patients in.

16 Now, is it a problem with workforce or is it a  
17 problem, as Peter implied, maybe financing reimbursement?

18 MS. KELLEY: Like I said before, this is something  
19 that we can look into a little bit further. Some of the  
20 reading I have done suggests that more and more  
21 psychiatrists are working more in medication management now  
22 than they are in providing psychotherapy to patients, and

1 that more non-physician providers are caring for the therapy  
2 side of patients' needs.

3           There has been a large increase in the number of  
4 social workers and other types of non-physician providers,  
5 but how that's working out in terms of an overall workforce  
6 perspective, I don't know, and it's something we can do some  
7 more looking into.

8           DR. CASTELLANOS: We even have problems with mid  
9 providers.

10           MS. KELLEY: Yes.

11           DR. CASTELLANOS: Mid-level providers. And this  
12 third question, just a clarification, I know when we talked  
13 about the primary bonus for primary care, I don't recall,  
14 was psychiatrist in that act?

15           MR. HACKBARTH: What I would say, and, Kevin, I  
16 don't know if you want to say anything here, but our  
17 definitions that we talked through in the report had to do  
18 with the delivery of certain types of services, and if you  
19 had a percentage above that, you are eligible for the bonus.

20                    Would a psychiatrist be able to qualify under  
21 those definitions?

22           DR. HAYES: Only if they bill for a certain

1 category of office visits, home visits, or visits to  
2 patients in non-acute settings. And, so, the question would  
3 be--I don't know if you know this or not--whether mental  
4 health care professionals know billing codes for outpatient  
5 services or whether they use other billing codes.

6 MS. KELLEY: There's standard visit codes, aren't  
7 they, that you're talking about?

8 DR. HAYES: Right.

9 MS. KELLEY: I think that the therapy codes are  
10 different.

11 DR. MARK MILLER: Yes, they are. So, then that  
12 way they'd know.

13 DR. BERENSON: They use a different set of codes.

14 MS. KELLEY: Yes.

15 DR. MARK MILLER: Than it would under the stuff we  
16 worked out a year, year-and-a-half ago, it would be unlikely  
17 unless they were using those codes for some reason.

18 DR. CHERNEW: I have a quick follow-up question on  
19 Mitra's point, and then a comment.

20 The follow-up question is: On that slide 7 where  
21 you talked about MIPPA requirements for cost sharing going  
22 from 50 to 20 percent, most Medicare folks have supplemental

1 coverage. So, are they actually paying the 50 to 20 percent  
2 or--

3 PARTICIPANT: [Off microphone]

4 DR. CHERNEW: No, that's what I'm saying. So, I  
5 was trying to figure out how many people are actually facing  
6 the 50 to 20 percent cost sharing versus having some other?

7 MS. KELLEY: Well, I think here, it depends. This  
8 slide is talking more about the general Medicare population  
9 who might be suffering from mental illnesses as opposed to  
10 specifically the users of IPF Care. Many of the users of  
11 IPF Care, they're not going to have supplemental insurance,  
12 but many of them are covered by Medicaid or they're dual  
13 eligible or they have--

14 DR. CHERNEW: [Off microphone] [inaudible].

15 MS. KELLEY: Right, but I'm saying not private  
16 supplemental insurance.

17 DR. CHERNEW: Right.

18 MS. KELLEY: In this context, I was talking more  
19 broadly about trying to keep people out of the hospital and  
20 having acute needs. So, it's a very good question. You're  
21 right, that many of the patients who end up in the IPF are  
22 not going to be affected by this.

1 DR. CHERNEW: The comment I have, which relates to  
2 several of the comments that were made, starting with  
3 John's, is: I think this illustrates part of a discussion  
4 we had last month about the importance of thinking about  
5 these as people with certain conditions as opposed to--I  
6 don't like the labeling if you're an IPF user because you  
7 could have the same thing and be in a different place.

8 MS. KELLEY: Yes.

9 DR. CHERNEW: And what I don't know the answer to  
10 is: There are many questions about where you should be  
11 clinically, and then there are other questions about how the  
12 financial payment system influences whether you're going to  
13 the right place. Maybe it doesn't even matter, but I think  
14 the right denominator for thinking about some of these  
15 populations isn't you're an IPF user or something else, but  
16 you're a person with a condition.

17 MS. KELLEY: Sure.

18 DR. CHERNEW So, you could be under-treated, you  
19 can be in the right or wrong place, and, so, I think this  
20 just illustrates some of the episode of care discussion and  
21 some of the other orientation we have where we're being  
22 particularly non-clinical in our orientation about these



1 people.

2 MS. KELLEY: Yes.

3 DR. CHERNEW: And I wanted to raise that.

4 MS. KELLEY: And that's a data issue as much as  
5 anything else.

6 DR. MARK MILLER: The only other thing I was going  
7 to say is, and maybe it didn't come through, I think we've  
8 heard that comment, and one way to look at what Dana has set  
9 up here, and we're wading into or tiptoeing into this area,  
10 she's going to look at it from the perspective of the  
11 Medicare and Medicaid and the dual eligible perspective. We  
12 are going to try and look at this in an episode basis, and  
13 even though we don't have specific research plans to answer  
14 your question, Bruce, already internally, we've been  
15 discussing like would we be able to track the drugs for this  
16 population?

17 Now, what I think Dana is saying is the ability to  
18 bring all that data together and make it fit like a puzzle,  
19 that's what's going to be very complicated. We'll have  
20 scattered data on this population from different  
21 perspectives, including the IPF, and the uncomfortable thing  
22 is we're going to eventually have to make statements about

1 what to do on IPF payment, and, so, we'll be trying to  
2 manufacture these puzzle pieces. I guarantee you they will  
3 not fit together well, but I think the idea of this  
4 presentation is that's the tactic we're taking, trying to  
5 get a broad picture of it.

6 DR. CHERNEW: But, in the data, is there someone  
7 who is in an IPF that's linkable to someone who's in a--if  
8 that person was discharged from the IPF, went to the  
9 community, and then later ended up in a nursing home?

10 MS. KELLEY: Sure, but we'd have to link several  
11 datasets together in looking for the beneficiary ID.

12 DR. MARK MILLER: Depending on how robust the data  
13 is when they hit the nursing home and whether they're a  
14 Medicare patient at that point--

15 MS. KELLEY: Exactly.

16 DR. MARK MILLER: Which often they aren't, you may  
17 see a continuum of experience with a blank, and then other  
18 data, and that we're going to try to fill those gaps in.

19 MS. KELLEY: Right. Right.

20 DR. MARK MILLER: Conceptually, we are trying to  
21 look at it the way you have said, and you will all have said  
22 in many other meetings, but the ability to do that will be

1 somewhat limited.

2 MS. KELLEY: Well, see, like Mark said, there  
3 might be a blank and you won't know whether they're still in  
4 a nursing facility, but under Medicaid, because we don't  
5 have that data or if they've gone home. We can't--

6 DR. STUART: Let me just comment on that very  
7 briefly. This is a relatively small proportion of the  
8 Medicare population that we're talking about.

9 MS. KELLEY: Yes.

10 MR. STUART: So, that's a challenge, but MCBS  
11 does have a residence timeline which makes it actually quite  
12 easy to follow people over time.

13 MS. KELLEY: Yes.

14 DR. STUART: From one kind of setting to another.  
15 The sample size is an issue.

16 MS. KELLEY: That's my concern, and I have not  
17 looked into it.

18 DR. STUART: But if you put several years  
19 together, at least you can get some idea about what  
20 relatively small populations look like. I think without  
21 going to the immense kind of data manipulation that you're  
22 talking about.

1           MR. GEORGE MILLER: Just a follow-up on my earlier  
2 point, as we determine or if we determine that we should set  
3 quality measures and link that to payment and/or assessment  
4 tools, I want to strongly suggest that this slide on page 10  
5 or slide 10 deal with these issues because I am personally  
6 troubled that folks with evidence base still get poor  
7 quality of care, and, in my mind, there should be a link to  
8 that, and I can't find a defensible excuse for it, quite  
9 frankly, and it really troubles me personally.

10           And then with the other bullet points, most likely  
11 to be misdiagnosed, I don't understand that. Less likely to  
12 receive appropriate care, I don't understand that. And,  
13 again, the statement was made with evidence care still  
14 receive poor quality of care, and I really don't understand  
15 that.

16           So, as we develop those robust measures, and I  
17 hope they will be robust, although I understand why it's  
18 difficult, if policy can make a difference, it certainly  
19 should make it here.

20           DR. MILSTEIN: And this is a challenge because the  
21 question we've been asked, you can intuit, is not the  
22 question we ought to be answering. The question we've been

1 asked is adequacy of payment to IPFs, but, as you begin to  
2 touch on it, you realize that you're really in a much bigger  
3 zone, and the bigger zone is access and poor quality of care  
4 to meet the behavioral health needs of Medicare patients.

5 And, so, it seems to me there's one very important  
6 sort of divide in the road here as to whether or not we go  
7 after the main problem or whether we stay narrow and simply  
8 focus on adequacy of payment for IPFs.

9 MR. HACKBARTH: So, what I hear you saying is that  
10 doing that narrow focus may be worse than inadequate, it may  
11 actually be counterproductive.

12 DR. MILSTEIN: That would be my intuition. I  
13 mean, and, in some ways, I think of if we are a team, we're  
14 a team whose sort of area of specialization and primary  
15 focus is on how you handle problems of overproduction of  
16 services and inefficient production of services. I call it  
17 our core expertise, and here, through this particular  
18 change, we realized we're in a territory where the primary  
19 problems may be more related to access and quality of  
20 services. And, in essence, we know this is an area where  
21 there's a lot of evidence that the benefit is not buying the  
22 kind of health that the benefit could and ought to be

1 buying, and I think the prior exchange about adequacy of our  
2 usual sources of data is right on the mark, particularly  
3 when we know that a fair percentage of the quality problem  
4 is embedded in under-diagnosis and misdiagnosis.

5 So, what are our traditional data source is going  
6 to do for us? I mean, I agree with the comment about Part D  
7 data, but I think if you have a fundamental problem of  
8 under-diagnosis and inappropriate treatment and wrong  
9 diagnosis, the Part D data is going to be of less use to us.

10 And, so, my intuition would be to make a decision  
11 whether we're going to go after the big problem or staying  
12 narrow, and if we want to go after the big problem, then we  
13 probably need supplemental sources of expertise and data to  
14 shed light on the quality and access problem, because I  
15 don't think we really have a handle on that right now.

16 MR. HACKBARTH: Let me ask Mark and Dana to  
17 comment on this.

18 So, as I understand it, Mark, the plan has been to  
19 move towards doing the payment adequacy analysis of the  
20 in-patient VIP of rate. You heard Arnie's concerns. What  
21 are your reactions to it?

22 That's not required, by the way. That would be a

1 choice for us, wouldn't it?

2 DR. MARK MILLER: Well, that was the plan. The  
3 plan was not to do it this fall because we feel like we're  
4 just kind of working our way into this, working our way into  
5 this area. I mean, Congress has given us a broad mandate in  
6 the sense of saying please advise us on these payment areas.  
7 As you can see, we tend to do things, move into areas as we  
8 have resources and ability to do this.

9 So, what we could do here is take your thought and  
10 a narrow versus broad and kind of internally talk a bit more  
11 about how robust--whether there is some gain, even on a  
12 narrow basis because when you think about this, to a greater  
13 or lesser degree, we're often always dealing with this  
14 problem that there's something embedded in Medicare that  
15 we're responsible for in a sense, but it sits in a broader  
16 context. Some of it is more self-contained than others.  
17 This one in particular, as somebody said, I can't remember  
18 which commissioner, when this happens, this in the middle of  
19 an episode and actually could represent a failure as opposed  
20 to ongoing care.

21 So, the couple of threads are this notion of  
22 trying to assemble blocks of data around this population as

1 best we can. Another thread to keep your eye on is that we  
2 have push now that we're going to start working on the dual  
3 eligibles more broadly in looking at how coordination can  
4 occur for those populations at the state level. There may  
5 be something there, even though it's not IPF that we're  
6 talking about, but the broader issue. We're going to try  
7 and bring that together because there may be programs in  
8 states or coordination efforts in states that we can look at  
9 and say all right, is there some opportunity here?

10 Now, having said all of that, I don't want to  
11 over-promise, and I think that the progress in this area in  
12 particular may be very slow and incremental, which tends to  
13 frustrate all of you guys, but we will continue to do our  
14 best on that.

15 On the narrow front and broad front, I would say  
16 let us take that question back and see if there are narrow  
17 things even within the Medicare context that we can make it  
18 better, but with the understanding that we get the point  
19 that this is a broad area and we need to be thinking about  
20 that that way.

21 MR. HACKBARTH: I think Arnie has raised a  
22 critical question here.



1 Dana, could you put up slide 8?

2 So, my instinct is that you're right, that looking  
3 at the narrow piece could be problematic.

4 Having said that, I look at some of the numbers on  
5 the right-hand column, and I wonder whether they signify  
6 that this new payment system may be having unintended  
7 consequences. A statement of fact, but there's some pretty  
8 significant shifts here in a relatively short period of time  
9 that raise questions in my mind.

10 MR. KUHN: Glenn, if I can just comment on that, I  
11 mean, I think Arnie's onto something, as well as you are  
12 here, is that also we have to remember, this is a new  
13 prospective payment system, it's the latest one that CMS has  
14 launched, and, so, anytime you have a maturing and new  
15 prospective payment system, you will have unintended  
16 consequences, and I think part of our analysis needs to look  
17 at what's happening in those areas that are dipping down or  
18 those ones that are seen in growth because that could all be  
19 driven by the opportunities that are presented in the new  
20 prospective payment system. So in addition to doing a  
21 payment adequacy, I think we really need to think about  
22 drill down as deep as we can to kind of understand some of

1 this variation that's going on.

2 DR. KANE: Actually, that was pretty much what I  
3 wanted to say, is I think we--to both try a population-based  
4 approach of what's going on with that population, which is  
5 sort of what the title of this says. But I agree that  
6 particularly the minus 10 on the non-profit and the plus 12  
7 on the for-profit always makes me nervous because we need to  
8 know why is that that people see an opportunity to make  
9 money here and that the non-profits are dropping out. So  
10 I'd want to know at least why that trend is happening.

11 And I guess the last thing is there are already  
12 SNPs dealing with dual eligibles, and I don't think they're  
13 screaming out mentally ill necessarily, and I'm wondering if  
14 there isn't some kind of information that we could get, even  
15 the PACE Program, but certainly the SNPs are doing dual  
16 eligibles, like in Massachusetts, where they actually are  
17 doing Medicaid, Medicare. It might have some sort of  
18 population-based ideas of what an episode looks like for  
19 people with any kind of diagnosis of primary or secondary, I  
20 guess, however you want to pull that, of mental illness, and  
21 maybe that's where we need to go to get some of our early  
22 signs of what's happening on more of a population or episode

1 basis.

2 DR. BERENSON: Yes, just picking up on the topic  
3 you introduced here, while we do that analysis, I would just  
4 point to the other things that could be going on. The  
5 health system change, I think, is pretty well-documented  
6 that a number of general hospitals are dropping distinct-  
7 part units, be it cost of cutbacks or inadequate Medicaid  
8 funding, and under service line strategies, they're just  
9 giving that up. So, I don't know that Medicare is driving  
10 this whole phenomenon.

11 The point I was also going to make, I wanted to  
12 address the patient center, medical home issue. I mean,  
13 there is a literature about the significant under-diagnosis  
14 of depression in primary care practices. RWJ actually a  
15 whole national program addressing this issue, and there's  
16 also at least anecdote and probably literature from the  
17 disease management companies that depression, as a  
18 comorbidity, is a major confounder of the ability to improve  
19 care for congestive heart failure, COPD, et cetera, and as  
20 there's a general trend to try to move that disease  
21 management activity into the practice, I think the medical  
22 home becomes a model for that. So, there's a real

1 opportunity here.

2 My concern in talking about the medical home is  
3 that everybody's got a favorite thing that they want the  
4 medical home to do. Cultural competence, shared  
5 decision-making, better diagnosis of depression, et cetera,  
6 and that we don't so lower the expectations on the medical  
7 home that it collapses under that weight.

8 I do think in this area we need to distinguish  
9 depression, which I think is fully within the competence of  
10 a good primary care practice from psychosis, which you need,  
11 I think, a full ACO mobilized to handle, and I would not  
12 expect most primary care practices to deal very effectively  
13 with patients with schizophrenia and severe bipolar disease.

14 So, that's it.

15 DR. CROSSON: Just an observation, the one thing  
16 that you note in the summary, Dana, on slide 14 is that the  
17 most significant change in case mix that's occurred since  
18 the institution of prospective payment has been an increase  
19 in DRG 12, degenerative nervous system disorders, and I  
20 wondered, reflecting back on our discussion earlier of  
21 hospice where we had, I think, begun to suspect that some of  
22 the increase in hospice care was actually directed at the

1 care of patients with Alzheimer's Disease, whether in fact  
2 that phenomenon is also taking place here, and, more  
3 broadly, whether in fact there is an increasing burden of  
4 Alzheimer's Disease across other Medicare payment sectors  
5 and whether that's something that we might want to take a  
6 look at later on.

7 DR. SCANLON: Just to add something to the  
8 discussion about taking a broad approach, I think that when  
9 we do that, what we're going to discover is the important  
10 role of state policies and how much their variation is going  
11 to be, and I think in this area, it's not just a question of  
12 what happens to dual eligibles, though it's profound for  
13 them, there's spillover effects. Your residential sort of  
14 care options are very much influenced by what states decided  
15 to do with respect to Medicaid because they sort of  
16 accomplish some of their Medicaid goals by controlling  
17 overall sort of supply.

18 And I think, also, sort of in terms of home care,  
19 the same kinds of things. It's a little less direct, but  
20 it's going to be a reality, and I think this goes along with  
21 the point that Bruce made. This is a small segment of the  
22 Medicare population, so, it's not like the representative

1 group that we're thinking about, it's people that are duals  
2 and disproportionately them, but, also, I think near-poor,  
3 and who are less likely to have supplemental and have many  
4 fewer resources to think about that they can rely on their  
5 own to be able to find sort of care outside of what the  
6 public policies have influenced.

7 MR. BERTKO: Dana, just a very quick comment, if  
8 you do get into Part D drugs, as Bruce was suggesting, there  
9 are reports of overuse of antipsychotics in nursing homes,  
10 and you want to be able to clarify that, just if you go that  
11 way.

12 MS. HANSEN: This is just to amplify and emphasize  
13 I think what, Mark, you've summarized in terms of what Arnie  
14 and many of us have brought up. So, even my dual eligible  
15 kind of theme that I often times carry is really more  
16 emblematic of the totality of this. I offer just two  
17 observations based on having been with the PACE Program for  
18 25 years.

19 When we get people who have--and, again, our  
20 average age was 82, 83. So dealing with this was always  
21 dealing a great deal with dementia, Alzheimer's in some  
22 form, but then when you have a psychiatric diagnosis coupled

1 with the co-morbidity of normal medical conditions, you have  
2 a triple component of that kind of cognition issue, the  
3 dementia itself, and then the comorbidities of clinical  
4 conditions.

5           This was the most difficult clinically to deal  
6 with, so, there's a workforce issue. If we think we have a  
7 shortage in psychiatrists or a shortage in geriatricians, we  
8 have a real difficult competency in a whole for geri-psych  
9 which is representative of this, plus the medical  
10 conditions.

11           So it's a small population, but I imagine this  
12 will both grow in numbers and challenge the system both on  
13 the state side and certainly the Medicare side as we have  
14 more people kind of go over the line into the Medicare  
15 Program. So it is one of those areas that, at some point,  
16 Mark, to your point, doing it gradually. It is a very  
17 complex thing, and it's something that goes over time.

18           So Bruce your point about thinking about the data  
19 that follows people over a period of time is probably a  
20 useful, but painful, exercise because when we worked with  
21 people in PACE, we followed the last four years of  
22 everything, and you could just see these profiles forming

1 both clinically in terms of the competency that you need,  
2 very disruptive, and we would never be able to find access  
3 quotes to a bed someplace. This is probably one of those  
4 really naughty problems that we can anticipate will cost the  
5 program and we just have to figure out how to anticipate  
6 managing it.

7 MR. BUTLER: So, in the materials we got in  
8 advance of the meeting, you really did ask the question with  
9 regards to which of the scope of what a June Chapter Report  
10 looked like, so, I think we're kind of headed towards the  
11 broader look in June at a minimum, I think part of your  
12 question is do we report on an update payment factor in  
13 March with respect to the freestanding IPF, which --

14 DR. MARK MILLER: This cycle, just in case I  
15 wasn't clear on this, were not planning to do an update  
16 cycle on IPF this time.

17 MR. BUTLER: Okay.

18 DR. MARK MILLER: The notion would be to--I just  
19 want to restate this because we're going to be trying to get  
20 smart on this, and we're going to be trying to get smart on  
21 it from a multiple perspective dimension, and I think I see  
22 the June chapter again bringing additional information to



1 bear on what's happening here, and answering some of these  
2 questions about exactly what we're going to bring to bear on  
3 these problems is like a lot of things here, we're going to  
4 delve into it, we're going to bring information forward, and  
5 then we'll have to decide whether we're ready to act.

6 So, I think our next footprint is kind of June and  
7 trying to draw as broad of a picture as we can, and then  
8 we'll just make decisions going forward on payment adequacy  
9 and the rest of it.

10 MR. BUTLER: So, I have an observation and a  
11 suggestion.

12 The observation is, to some extent, there's a  
13 bimodal population here, and the first is those patients  
14 that most people would agree need to be in some kind of  
15 institutional setting, and we're not sure which one, and  
16 they're pretty significantly ill, and once upon a time, they  
17 went to state institutions and they got out of the business  
18 largely, and then managed care came in the 90s and said  
19 we're not going to pay for that in-patient, particularly for  
20 the adolescents, and we've been futzing around ever since  
21 still, and which is the right setting?

22 The second population is more--I hate to call it

1 garden variety, but the prevalence of depression in aging,  
2 it increases, and there's this rapid growth in psychotropic  
3 drugs, which once were in the hands of the psychiatrists  
4 almost exclusively, and now are routinely prescribed, and  
5 appropriately so, by internists, some with a lot of  
6 knowledge of what they're doing, some with very little. And  
7 those are kind of two different populations, as I look at  
8 it, that we should kind of work--I thought, and I could  
9 almost envision a panel of people that kind of sit in these  
10 various roles and could help bring to life some of this data  
11 a little bit better so we're not just looking at the numbers  
12 by boxes, but kind of say let me tell you what the world is  
13 and the challenges and handoff and we're managing it. It  
14 might help appropriately bring light to the issue in a  
15 different kind of way than just the analytics.

16 DR. MARK MILLER: I hope you guys can observe  
17 this. It's certainly intended. We definitely try and get  
18 past just numbers, and, in this area in particular, since  
19 it's going to be so hard to cobble them together, this  
20 notion of sort of looking at some of what the states are  
21 doing with duals, going out and talking to people is  
22 certainly something that we would do because, as I said,

1 we're trying to figure this out as we go.

2           So, I think your suggestion is a good one, and  
3 also thinking about it from two different population  
4 perspectives is something we can carry out.

5           DR. DEAN: I'd like to follow-up on some of the  
6 questions that Jay raised about slide 14, the 29 percent  
7 increase. Do we know where those people came from or where  
8 they went to? I'm wondering what proportion of them are in  
9 nursing homes.

10           This, in my personal experience, is an ongoing  
11 problem, you have people with Alzheimer's who get restless  
12 and agitated, and a very rushed and overworked nursing home  
13 staff says we just can't deal with this, and they're trying  
14 to push people with Alzheimer's. These folks simply don't  
15 move fast. You have to go slow, have to be calm, and our  
16 nursing homes are so pushed and so, in many cases,  
17 short-staffed, they can't provide that kind of an  
18 environment, and, so, things degenerate and people start  
19 hitting each other, and, lo and behold, they end up in an  
20 in-patient facility, which is not an appropriate response,  
21 it's not effective, it's not the right way to do it, and,  
22 yet, given the realities of the environment in many nursing

1 homes, at least the ones that I work with, even though these  
2 are facilities that are trying to do good care, it just is a  
3 clash that evolves, and I think results in both some  
4 inappropriate decisions.

5           But the question is: How can we avoid that? And,  
6 secondly, it's an area, unfortunately, where coordination of  
7 care over a long term should be even more important than it  
8 is in a lot of other situations, and, yet, at least in my  
9 situation, the coordination of care between different  
10 facilities is less effective and less consistent than it is  
11 with a lot of other conditions.

12           So, it's really a problem. It's very frustrating.  
13 I don't know what the answer is, but it's something that I  
14 deal with on a day-to-day basis. It comes up often, and  
15 it's costly and it's costly in terms of just the overall  
16 effectiveness of what we do because if we could deal with  
17 these things in an appropriate way, I think there certainly  
18 are ways to improve care, but--well, I don't know. Like I  
19 say, it's a real frustration because I don't think we do it  
20 very well right now, and but how you improve it is a real  
21 challenge.

22           MR. HACKBARTH: Karen, the last word. We're

1 slightly behind schedule.

2 DR. BORMAN: Just to follow-up Peter's comment a  
3 little bit, as I try and think about that dual population  
4 and sort of say what's the common feature within each one,  
5 it's one that the mental health diagnosis is the principle  
6 diagnosis, and for the other group that you described, the  
7 "garden variety" people, it is a diagnosis, but probably not  
8 the principle diagnosis.

9 And then the question would be: I would think  
10 that within under 65 piece of our Medicare population that  
11 perhaps this and ESRD might be the two biggest things.  
12 Right? Principal diagnoses, because I'm struck by the  
13 number of these people, that these are disproportionately  
14 the under-65 piece of the program, but how much of the  
15 under-65 piece do they constitute? Are they anywhere near  
16 the fraction of the ESRD people?

17 MS. KELLEY: I don't know how they compare, but  
18 your instinct that they're a large portion of the under-65  
19 population is correct, and I can look at how they compare.

20 DR. BORMAN: As we think about that under-65  
21 population, if 90 percent of it is these people in ESRD,  
22 then that tells us something in our thinking about that

1 group. Just a thought.

2 MR. HACKBARTH: Well done, Dana, and thank you.

3 Our next topic is provider consolidation and  
4 prices. Anne and Jeff will begin with a presentation and  
5 then we'll turn to our guest panel.

6 MS. MUTTI: This session is intended to update you  
7 on trends in how the delivery system is organized, and we're  
8 focusing here on consolidation among hospitals and  
9 physicians and the effect that consolidation may have on  
10 prices. The topic is intended to inform our agendas both on  
11 delivery system reform and fiscal discipline, and the way  
12 we've structured it today for you is that Jeff and I will  
13 give a relatively brief overview and summary of the issue,  
14 and then we're lucky to have two national experts who can  
15 really illuminate the research and trends for you.

16 So in culling through the literature, survey, and  
17 other data, we find indications that hospitals and  
18 physicians are increasingly consolidating and have been  
19 since the 1990s. The reasons for consolidation have changed  
20 over time to some extent and the rate of consolidation has  
21 been uneven, but there is strong evidence that consolidation  
22 vigorously continues.

1           The consolidation or integration -- I tend to use  
2 the words interchangeably -- has been both horizontal and  
3 vertical, and since we use these terms repeatedly, the next  
4 slide is intended to make the distinction as clear as  
5 possible at the outset.

6           So for our purposes today, horizontal integration  
7 is when the same type of providers integrate. So we can  
8 have consolidation among physicians, and this may be thought  
9 of as when physicians come together and form a large single  
10 specialty group practice. We can also have horizontal  
11 integration with hospitals, and this is where they merge or  
12 form multi-hospital systems.

13           Vertical integration is when you have two  
14 different types of providers coming together. Here, it's  
15 physicians and hospitals that we're talking about today.

16           And Jeff will talk in a minute or two about these  
17 trends in greater detail and he'll also talk about how  
18 consolidation can have characteristics of both horizontal  
19 and vertical integration.

20           But first, we wanted to anchor you on why provider  
21 consolidation could raise issues for Medicare, and to  
22 understand how this can be, we'll take a moment to trace the

1 logic. It starts with the premise that provider  
2 consolidation can lead to an imbalance in market power in  
3 the negotiations between private insurers and providers.  
4 When provider consolidation occurs, insurers have fewer  
5 options among providers for contracting purposes and this  
6 could put these large groups of providers in a position to  
7 command higher prices than they would have otherwise been  
8 able to.

9           While Medicare sets prices and does not face this  
10 dynamic directly, the private prices that are determined by  
11 these market dynamics do affect Medicare in at least a  
12 couple of ways. First, it is likely that as prices rise, so  
13 do providers' costs. Higher costs, in turn, increase  
14 pressure to raise Medicare rates. And to just focus for a  
15 moment on the first part of this statement, higher prices  
16 can lead to higher costs, you will recall that we reported  
17 this effect in this year's March report.

18           Specifically, the Commission found that hospitals  
19 that do not face financial pressure, that is, they have  
20 relatively high payments for their non-Medicare patients,  
21 have higher costs. We don't have empirical evidence of what  
22 these higher costs buy, but presumably they are things like



1 higher salaries for clinicians and administrators, new  
2 technology, expansion of product lines or building new  
3 facilities, things that either meet a genuine community need  
4 or are reflective of a hospital's desire to garner greater  
5 market share. Higher costs can also, in the case of for-  
6 profits, be attributable to dividends to stockholders.

7           The important point here, though, is that these  
8 higher costs increase pressure to raise Medicare rates  
9 because some will argue that higher rates require a higher  
10 payment -- I'm sorry, higher costs require a higher payment.

11           A second reason Medicare can be affected by higher  
12 private prices is that if private sector prices are too much  
13 higher than Medicare rates, if the disparity is too great,  
14 it is possible that more providers will no longer serve  
15 Medicare beneficiaries, creating an access to care problem  
16 for our beneficiaries.

17           Third, we need to be aware of the implications of  
18 policy proposals that we have discussed, such as ACOs and  
19 bundling with respect to consolidation. For example, if we  
20 encourage integration through such policies, are we  
21 increasing prices in the private market?

22           Now, Jeff will talk about trends.

1 DR. STENSLAND: So to put the literature on  
2 hospital mergers into perspective, I thought we should take  
3 a look back into the 1980s, and remember, in the 1980s, we  
4 started out with a prospective payment system. There was a  
5 big drop in the length of stay, so hospitals had some excess  
6 capacity and this is one of the rationales for them merging.  
7 The mergers in the 1980s and 1990s in often cases were  
8 consolidations, where the hospitals combined operations and  
9 worked under one license. To the extent that there was  
10 excess capacity and duplication of service lines, there is  
11 some room for efficiency gains, and some research by Conner  
12 and Feldman as well as later studies by Dranove, Town and  
13 others have found that there could be some savings to these  
14 types of mergers.

15 However, more recently, integration has taken the  
16 form of hospitals consolidation into systems, but largely  
17 running independent organizations. There may be some  
18 sharing of protocols or administration, but a key factor in  
19 this type of integration could be the market power that  
20 comes with negotiating as a system. And the literature is  
21 fairly consistent here, showing that the market power  
22 associated with system negotiations results in increased

1 prices, and our two guests will talk about that further.

2 In sum, consolidations of operations might create  
3 some benefits, but simply joining systems primarily for  
4 joint negotiation appears to increase prices.

5 And finally, we should note that some hospitals  
6 have market power even when there are several competing  
7 hospitals in the market. For example, if a hospital is  
8 considered a "must have" hospital due to its reputation,  
9 amenities, location, or medical staff, it may command higher  
10 prices than other hospitals in the market even if we can't  
11 discern differences in the quality of the product.

12 Now, in this slide, I just have two key points.  
13 The first point is that employment of physicians has  
14 continued to grow despite the much publicized losses that  
15 some hospitals have faced on acquisitions. And the second  
16 point is I will try to explain why this might be occurring.

17 If we look back in the 1990s, there was a wave of  
18 physician-hospital integration into vertically integrated  
19 systems. In some cases, hospitals were employed, but more  
20 often, hospitals and physicians created joint contracting  
21 entities called physician-hospital organizations, or PHOs.  
22 The purpose of PHOs were to deal with the expected oncoming

1 wave of capitated contracts from insurers, but the wave of  
2 capitation never really swept across the country and these  
3 PHOs were often dissolved. Back in the 1990s when I would  
4 talk to some hospitals about their PHOs, sometimes they  
5 would say they formed the PHO but they never even actually  
6 had any contracts with insurers and they just let it  
7 dissolve.

8           However, the much stronger form of integration,  
9 employment of physicians, has continued to grow, and this  
10 may be counterintuitive given the losses that some hospitals  
11 faced on physician practice acquisitions, and these losses  
12 were often highly publicized. So I think the simplistic  
13 version of the story was that hospitals couldn't manage  
14 physicians. We often heard it was like herding cats and  
15 hospitals just couldn't do it. And there certainly were  
16 some hospitals that divested their employment of physicians,  
17 but I think the story is much more complicated than that.

18           Part of the problem from the 1990s was that  
19 hospitals simply paid too much for the practices and  
20 required too little in productivity, and what we hear is  
21 that hospitals have gotten better at acquisitions and at  
22 managing physicians. And there's often -- I shouldn't say

1 it's often not just a hospital acquisition, it's a system  
2 acquisition, so you have one common owner of the hospital  
3 and the physician practice. It doesn't have to be hospital  
4 dominated. It could be physician dominated.

5           Second, there are several social and financial  
6 factors that may have led physicians to be willing to accept  
7 a relatively lower salary for working for an integrated  
8 organization and may have led hospitals to be able to  
9 provide a relatively higher salary when the physicians work  
10 in an integrated organization. So kind of the willingness  
11 to accept on the part of physicians might be going down and  
12 the willingness to pay on the part of hospitals, or the  
13 ability to pay, might be going up, and let's talk about some  
14 of those reasons.

15           First, physicians have told us they often want the  
16 simplicity of salary, and certainly there are some part-time  
17 partners in independent physician practices. But with the  
18 increase of physicians working part-time, particularly in  
19 primary care, and that desire for a salaried arrangement, it  
20 might just be easier to work as a part-time physician for a  
21 hospital than a part-time physician in a practice.

22           Also, physicians often want the malpractice

1 insurance from the hospital. Some have argued that  
2 hospitals that are self-insured can do this more efficiently  
3 than the physician who has to purchase the malpractice  
4 insurance on the open market. We don't have much empirical  
5 evidence on that, but we do hear it.

6           Also, hospitals need someone to be on call, and we  
7 hear this often in our site visits. There is difficulty  
8 negotiating these contracts, and this is consistent with the  
9 economic literature. When you have difficulty negotiating a  
10 contract, rather than set up contracts with the person, you  
11 just employ them, and you could imagine why a hospital would  
12 want maybe even some specialists on its staff, some  
13 interventional cardiologists or the neurosurgeons. It might  
14 be easier to employ them than to try to set up your  
15 emergency department, then later try to negotiate with them  
16 for their on-call service.

17           And the longstanding reason, of course, is that  
18 hospitals want patients and they want those patients  
19 admitted to their hospital. They don't want their admitting  
20 doctors to start sending their patients to competing  
21 hospitals or even the doctor's own hospital, and so that  
22 could be a reason for bringing the physicians in-house as

1 employees.

2           And now another thing that I think Dr. Ginsburg  
3 will talk about is physicians may want to share in a  
4 hospital system's market power. Powerful systems of  
5 hospitals may be able to negotiate higher rates with private  
6 insurers than a small, independent practice could.

7           And I want to stop for a moment to say that this  
8 is different than what you probably would get out of your  
9 economic 101 textbook or what we hear about often. People  
10 will often ask us, what is the private market price for an  
11 intermediate office visit, and we will have to say, well,  
12 there is no market price. It depends where you are in the  
13 country. Well, what is the price in this market? And I  
14 think the answer may be there is no market price, even in a  
15 specific market. There may be different markets for each  
16 individual provider. So each individual system might be  
17 getting a different price. I think our speakers can talk  
18 more about that today.

19           And the idea when insurers pay large systems  
20 higher prices than they pay independent practices, this may  
21 encourage those independent practices then to join the  
22 larger system.

1           And finally, I would like to say that there is a  
2 similar incentive in the Medicare system, because Medicare  
3 pays more for hospital-based physician services than for the  
4 same physician services in a physician office. This pricing  
5 differential also encourages vertical integration.

6           So if hospitals acquire physician practices and  
7 make those practices hospital based, the hospital will  
8 receive a fee for the physician's work and a separate fee,  
9 or facility fee, for use of the hospital-based facility.  
10 And the sum of the two fees that the hospital will get, the  
11 physician work fee and the hospital's facility fee, is often  
12 considerably larger than the fee an independent physician  
13 would get for providing the same service in their office.

14           So to make this clear, let's say you have a  
15 hospital here and right next door is an office building that  
16 holds physician offices. And initially, the physician is  
17 billing their services to Medicare as an independent  
18 practice, and they're going to get this combined fee for  
19 their work and for the physician practice office expense.  
20 The next thing they do is then they decide to integrate with  
21 the hospital. So now they bill it differently to Medicare  
22 and they bill for the physician's work plus an office-based



1 facility fee. And the combination of the new fee, the two  
2 new fees that the hospital gets, is going to be larger than  
3 the fee that the physician originally got when they billed  
4 on their own. So hospitals could use this additional  
5 revenue to try to attract physicians into integrating.

6           So we've talked a little bit about horizontal  
7 integration and some of the reasons for that, and we also  
8 talked about vertical integration and some of the incentives  
9 there that there are for vertical integration. But in this  
10 chart, we provide a simplified presentation of the  
11 interaction between horizontal integration and vertical  
12 integration amongst hospitals and physicians.

13           In that upper left-hand corner, we have  
14 independent physician practices in a market with several  
15 competing hospitals. This may be a competitive market  
16 because everybody is competing with each other, but it may  
17 be difficult to coordinate care because the physicians and  
18 the hospitals are not integrated.

19           As we move to the upper right-hand corner, we have  
20 horizontal integration of hospitals, but there's a lack of  
21 physician integration with the hospital.

22           Now, the yellow arrow going downward from the

1 upper right corner to the lower right-hand corner represents  
2 the incentives for physicians to integrate with the hospital  
3 system to gain market power, those incentives I just talked  
4 about. If they move to that lower right-hand corner, the  
5 hospital may have market power to negotiate higher rates for  
6 the physicians if they join that system and the physicians  
7 and the hospitals are then united in a powerful system.  
8 They could provide coordinated care, but they also may be  
9 able to get higher prices from private insurers.

10 In the lower left-hand corner, we have physicians  
11 integrated with hospitals, but the integrated systems will  
12 often compete with each other. So this idea is you may have  
13 System A. It has doctors and a hospital. System B, it has  
14 doctors and a hospital. And they both compete with each  
15 other in the community. There is no natural incentive for  
16 them to go together for two reasons. One might be  
17 efficiency and the other one might be market power.

18 From the efficiency standpoint, you could say if  
19 you have a mid-sized city, you might have two systems and  
20 both systems have a neonatal intensive care unit. Both  
21 systems may even have an air ambulance service. Both  
22 systems may have a neurosurgery department, and the market

1 really may not be large enough to merit two of those --  
2 duplication of those services, and the systems may argue we  
3 could gain some efficiencies if we merge, and we saw some of  
4 that type of merger in the 1990s and hospitals often argued  
5 it was for efficiencies. Sometimes the FTC would challenge  
6 and say, no, it is going to create market power. Hospitals  
7 usually won those fights and the FTC usually lost.

8           But the arrow, the point of the arrow there is to  
9 show that there is some incentive for those vertically  
10 integrated competing systems to join together into a  
11 powerful system with more market power.

12           MS. MUTTI: So what is the effect of this  
13 consolidation on prices? Here, we will talk about vertical  
14 and horizontal consolidation separately.

15           The preponderance of the literature is fairly  
16 clear that with respect to horizontal consolidation, and the  
17 literature is mostly on hospitals merging, that this  
18 horizontal consolidation does tend to increase price. One  
19 summary of the literature found that the effect ranged  
20 between five and 40 percent, with higher estimates more  
21 likely to be in markets where two closely-located hospitals  
22 joined together.

1           There is less literature on the effect of  
2 physicians horizontally integrating. That is when they are  
3 forming, say, a large single specialty group practice. In  
4 general, the literature does suggest that part of the  
5 motivation in consolidating is to improve negotiating  
6 leverage to get higher prices, but we have not found  
7 literature which evaluates the effect empirically.

8           With respect to vertical integration, where  
9 different types of providers are coming together, like  
10 hospitals and physicians, there is far less literature.  
11 From a theoretical perspective, this type of consolidation  
12 can have both pro-competitive and anti-competitive effects,  
13 and we have Martin Gaynor here and I think he will be able  
14 to describe what the reasons for that are.

15           From market interviews, we know that many do  
16 report that one of their motivations for vertically  
17 integrating is to gain greater market leverage, and here,  
18 one of our other panelists, Paul Ginsburg, will be a good  
19 position to discuss this further.

20           Consolidation's effect on prices must be  
21 considered in the context of its impact on quality and its  
22 ability to reduce overall providers' costs. So we've taken

1 a look at this literature, also.

2           With respect to horizontal integration, on  
3 balance, the literature as reviewed in the 2006 RWJ Report  
4 finds that hospital mergers do not improve quality and may  
5 lead to lower quality. The evidence on costs -- and here we  
6 are talking about per unit costs, that is the cost, say, for  
7 a hospital say -- the evidence is mixed. Some mergers do  
8 squeeze out costs. Others do not. As Jeff said earlier,  
9 they are more likely to reduce costs if the merger fully  
10 consolidates services.

11           With vertical integration, there is some research  
12 suggesting that it does result in improved quality and lower  
13 costs. Integrated delivery systems are more likely to use  
14 care management processes and IT to improve the quality of  
15 care, and some integrated delivery systems appear to do a  
16 better job keeping people out of the hospital, which  
17 suggests that their costs over time, or their longitudinal  
18 costs, are lower, if not their per unit costs.

19           Of course, if we find that integration raises  
20 prices and in turn premiums, but we also get better quality,  
21 a logical question to keep in mind is whether we could have  
22 gotten that improved quality without paying the higher

1 prices.

2 Another lens to examine whether current prices are  
3 related to value or to other factors, such as consolidation  
4 or being a must-have hospital, is to look at the variation  
5 in prices paid by insurers to providers. The data is not  
6 conclusive in itself, but it can raise questions. Limited  
7 evidence does suggest wide variations in price for the same  
8 procedure within a State, and we have two examples. They  
9 both come from the report by the New Jersey Commission on  
10 Rationalizing Health Care Resources chaired by Uwe  
11 Reinhardt.

12 As you can see on this chart, we show the  
13 variation in prices that a New Jersey insurer pays six  
14 different hospitals for three procedures, CABG,  
15 appendectomy, and hip replacement. And as you can see in  
16 that first CABG column, the insurer pays Hospital A \$26,000  
17 and a little bit more. For that same procedure, that  
18 insurer pays Hospital F over \$45,000. And this same  
19 pattern, you can see across both appendectomies and hip  
20 replacements, as well.

21 In California, we see even greater variation among  
22 the rates paid to hospitals by one California insurer, and

1 these rates are wage adjusted. As you can see, the insurer  
2 paid Hospital A \$33,000 for a CABG stay, and for that same  
3 procedure, it paid Hospital E nearly \$100,000. And again,  
4 the wide variation is evident in the case of appendectomies,  
5 as well.

6 So as we close here, we felt it was important to  
7 raise this topic, especially because some of the policies we  
8 have been discussing may increase consolidation and we  
9 should be mindful of the research on possible effects on  
10 private sector prices and ultimately on Medicare spending  
11 and access to care for our beneficiaries.

12 In the very short run, our next step here is to  
13 get any clarifying questions you might have for us and then  
14 we will hear from Martin Gaynor and Paul Ginsburg.

15 And I would put a note in for when you do get to  
16 the discussion period, where it's not just clarifying  
17 questions but broader questions, we're looking for guidance  
18 on what additional research you'd like us to bring back to  
19 you. A couple of the things that we have thought about is  
20 whether you would like more information about the regulatory  
21 environment and how that affects consolidation and also  
22 consolidation and the trends in insurers, because here we

1 focus on consolidation of providers and what that drives,  
2 and you may have a question about insurers, also. But I'm  
3 sure that there are others and we look forward to that.

4 MR. HACKBARTH: Okay. Well done. Thank you, Anne  
5 and Jeff.

6 What I'm going to suggest is, in order to stay on  
7 time, what we'll do is have our guest panel make their  
8 presentations and then Anne and Jeff will take those chairs  
9 next to the table, and if you have questions about their  
10 presentation, we'll handle that all in one question period.

11 So Anne or Jeff, are you going to introduce our  
12 guests?

13 MS. MUTTI: We have given you detailed bios of  
14 both of our panelists, so you can see that they both have  
15 extensive experience in this field, so I will just give the  
16 briefest of introductions.

17 Our first panelist will be Martin Gaynor. He is  
18 the E.J. Barone Professor of Economics and Health Policy in  
19 the Heinz School of Public Policy and Management and the  
20 Department of Economics at Carnegie Mellon University.

21 Paul Ginsburg is our second panelist. He is the  
22 President of the Center for Studying Health System Change



1 and previously was the Executive Director of PPRC, one of  
2 MedPAC's predecessors.

3 So we welcome both of you. Thank you.

4 DR. GAYNOR: Thank you. Thanks for having me  
5 here.

6 Let me briefly just tell you a little bit, some  
7 thoughts on integration, consolidation, and some of what I  
8 have to say overlaps with what Anne and Jeff already said,  
9 so that will go very quickly. Here's a brief outline: Just  
10 a few facts, some thoughts about the impacts of integration,  
11 first with regard to hospitals alone, then with regard to  
12 physicians, and hospitals. First, I'll talk about  
13 efficiencies and then possible sources of harm to  
14 competition.

15 So as Anne and Jeff said, there had been a great  
16 deal of provider consolidation in the United States over the  
17 last 15 years. A lot of it has been in the form of hospital  
18 merger, acquisition, membership in systems, what is referred  
19 to as vertical, hospital and physician integration, and  
20 there, there's an awful lot of different forms, and to call  
21 this integration in some cases really isn't entirely  
22 accurate.

1           Now, with regard to hospitals, there was a big  
2 merger wave in the middle of the 1990s, shortly following  
3 the failure of the Clinton health reform, and that resulted  
4 in well over 900 deals just from 1994 to 2000. Many markets  
5 in large urban areas are now dominated by two or three large  
6 hospital systems, in some cases only one. It used to be  
7 typical there would be six to 12 independent hospital  
8 entities. The proportion of hospitals that are members of  
9 systems grew from about 40 percent in 1985 to about 60  
10 percent in 2000. And by the early part of this century,  
11 about 90 percent of people living in large urban areas, in  
12 larger MSAs, faced very, very highly concentrated hospital  
13 markets.

14           Now, that merger wave went up, and not  
15 surprisingly, there were a lot of mergers, so it went down,  
16 but it has recently ticked up again. Here's a picture. I  
17 won't go into this in any detail. Unfortunately, the green  
18 is number of hospitals involved in deals, blue are number of  
19 deals, and as you can see, I don't have data or I wasn't  
20 able to obtain data quickly on the number of deals going.  
21 But you can see the uptick, then the downward trend, and  
22 then the uptick again more recently. So a tremendous amount

1 of activity.

2 Here's membership in hospital systems. Again, you  
3 can see this has been growing very substantially.

4 Now, with regard to hospitals and physicians,  
5 there was lots of increase in affiliation between hospital  
6 and systems, as Anne and Jeff described very ably. Some  
7 forms of those grew very rapidly up until the mid-1990s,  
8 then declined and ticked back up, and as they pointed out,  
9 physician employment has been growing very rapidly.

10 This graph basically replicates their graph.  
11 There are just a few more lines for IPA, management service  
12 organization, and group practice without walls, but the PHO,  
13 which is the red line here, and the light blue line,  
14 employment, are identical with what Anne and Jeff have.

15 Now, what about possible impacts? Let me first  
16 deal with mergers or system membership or acquisitions at  
17 hospitals and hospitals. There are some potential  
18 efficiency gains from integration. There may be economies  
19 of scale, and then if you put two smaller entities together  
20 and make them bigger, well, then there will be benefits from  
21 that. It's possible you can eliminate duplication. These  
22 things, I think, are well known and have been discussed a

1 great deal.

2           Now, it turns out, again, not terribly  
3 surprisingly, that these savings only get realized if the  
4 facilities really integrate and combine. You have to  
5 consolidate services. You have to close some. Ownership  
6 integration doesn't mean facility integration, and it turns  
7 out that a lot of the mergers, acquisitions, systems  
8 membership didn't result in true integration.

9           So the evidence on whether hospital mergers led to  
10 efficiencies is mixed. I think the one thing I would draw  
11 from that is that when there is true integration, when  
12 facilities are truly integrated, some things are eliminated  
13 or moved, located in one place, then there can be some  
14 significant cost savings, but only if that's the case, and  
15 it doesn't appear that that actually happens in the majority  
16 of hospital mergers that we've seen up to this point in  
17 time.

18           Now, what about harm to competition? Well, again,  
19 this is fairly straightforward. If there are fewer  
20 competitors, less pressure on price, also possibly less  
21 pressure on quality. The research evidence on this is very  
22 clear with regard to price. If there is consolidation,

1 there are substantial increases in price. You can have  
2 increases of something like five percent, which is not a  
3 trivial amount of money on a base price. In markets with  
4 very many hospitals, there's one research study that showed  
5 five percent increases due to mergers, even in L.A. and  
6 Orange Counties, which had more than 120 hospitals. So even  
7 in very large markets, you can get this.

8           Then in markets with a small number of hospitals -  
9 - one study looked at San Luis Obispo, also California --  
10 that study showed that there was a merger that could result  
11 in increases of over 50 percent, essentially a merger to  
12 monopoly. Very, very large price increases. So substantial  
13 price increases.

14           With regard to quality, the evidence there is  
15 mixed. The one piece of evidence I think is quite clear is  
16 a study that looked at Medicare beneficiaries who had heart  
17 attacks, and they found that in areas where there was less  
18 competition, mortality rates, carefully risk adjusted  
19 mortality rates for Medicare beneficiaries who had heart  
20 attacks were substantially higher. Now, does that mean that  
21 hospitals that are facing less competition explicitly say,  
22 gee, let's go kill some Medicare beneficiaries? Of course

1 not. It doesn't mean anything like that. But perhaps --  
2 the study is completely silent on this -- perhaps there's  
3 not the pressure to do as well, and it does appear, at least  
4 from that study, that even for Medicare beneficiaries,  
5 quality is compromised, although, of course, there is no  
6 direct competition on price.

7           The rest of the literature is not large. The  
8 results are quite mixed. It's not as clear once you step  
9 outside of Medicare and look at private markets.

10           With regard to hospitals and physicians, again, it  
11 seems quite clear that there are potential gains from  
12 coordination, collaboration, concentrating volume in some  
13 facilities, gains from information, assurance of supply,  
14 reducing contracting costs. I think all these things are  
15 quite evident. They've been discussed a great deal. What  
16 we don't have is a tremendous amount of great evidence on  
17 whether these things are realized.

18           But let me move on to the evidence. At this  
19 point, the evidence doesn't show a lot of impacts. Now, I  
20 think this is very difficult, in part because there's  
21 integration and there's integration and then, well, there's  
22 integration. People have studied carefully all the

1 different forms and varieties which hospitals and physicians  
2 might affiliate find there's a plethora of these things and  
3 various scholars have built typologies. But even within,  
4 say, a particular cell on a typology, there's a lot of  
5 variation. Exactly what are the financial incentives for  
6 physicians? What are the financial incentives for  
7 hospitals? What exactly are they coordinating?

8           So it's difficult to find impacts. It doesn't  
9 mean, of course, that these things couldn't be realized, but  
10 at least up to this point, there doesn't seem to be a lot of  
11 evidence of that.

12           One thing that does seem at least -- it seems like  
13 bundled payment, evidence from the -- I'm blanking on the  
14 exact demonstration, but you folks know that better than I -  
15 - demonstration project did actually seem to lower costs and  
16 improve quality.

17           So from the literature, we don't find across  
18 literature consistent results on the effects of integration.  
19 Like I said, I don't think this is terribly surprising  
20 because integration is not the same thing in different  
21 places at different points in time. The impact seems to  
22 depend a great deal on specific integration. Most

1 integration doesn't really succeed in aligning hospital and  
2 physician incentives, and a lot of integration is focused on  
3 financial, not clinical, factors.

4           Now, what about with regards to competition? Now  
5 here, the theory is less clear. With regard to hospitals  
6 merging with other hospitals, it seems theory is pretty  
7 clear that that's going to reduce competition.

8           With hospitals and physicians integrating, it's  
9 not quite so clear. In particular, if both the hospital and  
10 the physician markets are competitive, then integration  
11 really can't harm competition because there's a lot of  
12 competition in both those markets. But if not, then it is  
13 possible that integration could harm competition.

14           So suppose that one hospital integrates with sort  
15 of a key set of physicians in the market and other hospitals  
16 don't have access to those physicians. Well, that obviously  
17 is going to harm competition in the hospital market because  
18 one hospital has sewn up all the key folks in town. It may  
19 allow firms that were actually competing with each other to  
20 now collude. Hospitals may have to compete less strongly  
21 head to head, because by integrating with different kinds of  
22 physicians or different groups, they're actually now



1 differentiating themselves a bit and it's not apples to  
2 apples, but it's apples to oranges.

3           If the hospital market is less competitive than  
4 the physician market, then doctors might acquire market  
5 power by integrating with the hospital, and Anne and Jeff  
6 talked about some instances of that. And integration often  
7 does seem to be a strategy to increase bargaining power with  
8 insurers.

9           With regard to empirical research evidence, there  
10 has not been a lot of research on this topic. There's not a  
11 lot of good data on this. The research that's out there  
12 doesn't seem to show much impact on treatments, outcomes,  
13 costs, or prices -- maybe there's something else that's  
14 omitted -- with some of the exceptions that I just  
15 described.

16           On prices, there are a few papers and they show  
17 conflicting results. There is some research where the  
18 results show that hospital-physician integration increases  
19 prices, but then there is some other research that shows  
20 that it doesn't have any impact. So we are not in a  
21 situation where we do have a lot of direct evidence at this  
22 point in time.

1           Antitrust enforcement, I'll just talk about the  
2 hospital-physician area. There's been a lot of antitrust  
3 enforcement, hospital mergers, and as Jeff said, the FTC and  
4 DOJ did well in the 1980s, did very poorly in the 1990s, and  
5 then made a comeback, winning a major case just a couple of  
6 years ago.

7           But with regard to physician-hospital relations,  
8 actually, this bullet one -- it shouldn't read there's been  
9 a lot. There has been some. And the enforcement agencies  
10 often have been concerned about integration and courts have  
11 not often found this to be anti-competitive, but that could  
12 change. There was a recent case where there was a ruling  
13 against a physician-hospital organization that went the  
14 opposite direction. Actually, I should correct myself.  
15 That's a consent decree, not a court case. So there has  
16 been some concern in antitrust circles. We don't have a  
17 long track record on this, but generally, the courts have  
18 viewed these things as benign as opposed to anti-  
19 competitive.

20           So just to summarize, there's a lot of  
21 integration. There is potential for more efficiency and  
22 better quality. These potentials, for the most part, seem

1 to be unrealized, at least based on the evidence we have at  
2 this point in time. Hospital consolidation is often anti-  
3 competitive. With physician-hospital integration, it is  
4 less clear, but there is the potential for anti-competitive  
5 effects. Thank you.

6 DR. GINSBURG: It's really good to be here, back  
7 at MedPAC, and see so many members of MedPAC that I know  
8 very well.

9 I've been asked to give a perspective that comes  
10 from site visit research, and in a sense, it's usually  
11 fairly complementary to quantitative research. We don't  
12 just ask people what they think. We have a systematic way  
13 of deciding who to interview and to triangulate the  
14 responses.

15 The policy context for this is that greater  
16 provider leverage leads to higher insurance premiums, and  
17 it's possible that higher prices could even induce a supply  
18 response by providers. Another factor in the context is  
19 that with all the discussion about accountable care  
20 organizations or other mechanisms to promote integration,  
21 many are concerned that such initiatives could facilitate  
22 greater provider leverage, either by encouraging

1 consolidation, either legal consolidation with ownership or  
2 virtual consolidation, just working together.

3           So let me say a few things about the institutional  
4 context, because it hasn't come up yet explicitly. You  
5 know, compared to -- we used to have a world in the 1970s or  
6 before where insurers either reimbursed costs or they just  
7 paid whatever charges providers set, and with the creation  
8 of managed care, this involved probably the most important  
9 impact that managed care has had, was the creation of  
10 provider networks with contracts between physicians,  
11 hospitals, other providers, and managed care health plans.

12           And the way it's done today is that health plans  
13 will negotiate with each hospital or hospital system, and  
14 for inpatient care, they use a mixture of per diems, DRGs,  
15 discounted charges. DRGs, unfortunately, are not the  
16 dominant thing. I think per diems are. Actually, there's a  
17 trend for hospital outpatient care towards negotiating based  
18 on the Medicare hospital outpatient payment system.

19           For physicians, use of the Medicare physician fee  
20 schedule is almost universal and insurers negotiate or state  
21 physician payment rates explicitly as X-percent of Medicare.  
22 Now, health plans tend to just publish or communicate a fee

1 schedule to physicians and physicians decide whether they're  
2 willing to contract with the plan on the basis of that fee  
3 schedule, but if the practice is larger, they will probably  
4 respond to the insurer, no, that is not enough, we need to  
5 negotiate a higher rate, and higher rates will be  
6 negotiated. So you have the vast majority of small  
7 practices in an area all being paid the same by any insurer,  
8 but that the practices that are larger will each have  
9 separately negotiated rates.

10 Now, there are large variations in physician rates  
11 by community, and if you will bear with me, I'm going to  
12 take, I think, a very significant study that GAO did a  
13 number of years ago with data from the Federal Employees  
14 Health Benefits Program, the PPO plans, of hospital and  
15 physician payment rates. And they constructed adjusted  
16 price indexes and the adjusted meant that they were  
17 adjusting them by input prices, pretty much the same way  
18 that Medicare adjusts its hospital payment schedule and  
19 physician schedule. But the term index, they were not  
20 indexed to Medicare rates. They were indexed to the average  
21 that the Federal Employees Health Benefits Association pays.  
22 So just keep that in mind, that this is not relevant to

1 Medicare, although I'm sure these indexes will -- if we  
2 translated this into relative to Medicare, it probably would  
3 look the same, except the scale would go up or down.  
4 Probably, the scale would go up.

5           So I just grabbed some examples of both high and  
6 low. I didn't want to do the extremes. Actually, the  
7 highest metropolitan area for hospital prices was asterisk.  
8 That was only one hospital in geographic area that had the  
9 high prices. GAO didn't report the name of the hospital, I  
10 mean, or the area.

11           But basically, I focus on Milwaukee as one of the  
12 very high things because, in fact, the GAO study was  
13 requested by a Congressman from Milwaukee who had enough  
14 inkling of what was going on to make a good call in asking  
15 GAO for the study. New York City is -- this surprised me --  
16 was a very low hospital price index.

17           I mean, you go over to the physicians, I chose  
18 Madison because I saw many Wisconsin MSAs that were up there  
19 as far as very high indexes for physicians. I chose  
20 Washington, D.C. Many are familiar with that as being a  
21 fairly low.

22           And particularly for the physician price indexes,

1 because that we get information in our site visits, a very  
2 high correlation between the GAO study and the sites that  
3 HSC goes to periodically. They just lined up perfectly.

4 And MedPAC did a study or commissioned a study in  
5 2003 on physician payment rates, and the conclusion was that  
6 there was a very strong correlation with the size of the  
7 community. The smaller metropolitan areas had higher  
8 physician payment rates than the larger ones.

9 There have been large swings in hospital leverage  
10 over time, and MedPAC analyses that were published in your  
11 March 2009 report seem to show a peak in hospital leverage  
12 in 1992, peak meaning that the ratio of private payment  
13 rates to costs was highest, and a trough in 1999, and it  
14 continues to be heading upward. This is also consistent  
15 with HSC site visit results. Also, MedPAC analysis shows no  
16 trends in physician leverage, also consistent. So here is  
17 the, from your report, the hospital charts showing this,  
18 what appears to be a cycle, although we don't know if it's  
19 headed towards peak or going to continue to rise, and the  
20 physician trend, which is very difficult to discern any  
21 trends.

22 Now, I'm going to proceed to analyzing what's

1 behind these, particularly the variation over time. And  
2 four factors I want to talk about are provider  
3 consolidation, purchaser requirements for broad provider  
4 networks, changes in provider capacity in relation to  
5 demands, and the last thing which actually I'm just starting  
6 to think about is a pretty substantial variation cross-  
7 sectionally -- that's why it doesn't belong on this slide --  
8 in Medicaid payment rates in relation to costs or in  
9 relation to Medicare.

10 I'm going to focus on California for some reasons  
11 that may or may not be correct, and then the real reason is  
12 at the bottom. It seemed as though trends in leverage in  
13 California have been more visible than in other areas,  
14 perhaps because it's such a large State, perhaps because the  
15 markets are so distinct. Perhaps the swings have been of  
16 greater amplitude. But the changes in leverage also seem to  
17 apply to physicians as well as hospitals.

18 California includes many of the prototypes for  
19 accountable care organizations. It has medical groups and  
20 IPAs that accept capitated risk from insurers. There are  
21 hospital foundations. What is a hospital foundation? Well,  
22 this is how you get around a prohibition against hospitals



1 employing physicians. You create foundations that are  
2 affiliated, and the foundations employ the physicians, but  
3 they work as if the physicians were employed.

4           But most important is that HSC recently did a site  
5 visit study for the California Health Care Foundation which  
6 involved in-depth visits to six metropolitan areas in  
7 California. Some very interesting differences. We  
8 published community reports, or the foundation published  
9 them in July, if you'd like to see them. And then we are  
10 nearing the end of a series of cross-site analyses. One of  
11 them is on hospital and physician leverage. In fact, Bob  
12 Berenson, who is a full member of our team for this study,  
13 is the lead author with me on the hospital leverage paper.  
14 This is another one on the erosion of the delegated model,  
15 and we're expecting these papers to be completed soon.

16           Well, when we asked respondents about market power  
17 of providers, frequently, they would volunteer how different  
18 it is today than it was -- some respondents said ten years  
19 ago, some said 15 years ago -- very striking changes in  
20 leverage and little sign that a turning point was coming.  
21 They just were seeing continuation of the increasing  
22 provider leverage that they were seeing.

1           One factor is provider networks, and in  
2 California, like the rest of the country, the employers and  
3 consumers and employees want broad provider networks. In  
4 fact, one respondent reported that a benefits consultant did  
5 a network disruption analysis, which basically meant that if  
6 this employer changed health plans, how many employees would  
7 have to change their physician, and the overlap of the  
8 networks was 97 to 98 percent. So broad networks.

9           There have been some recent narrow network  
10 products in California, really in response to some of the  
11 provider leverage, and CalPERS, which negotiates for all of  
12 the State employees and many county and local employees in  
13 California, had BlueShield set up an alternative HMO product  
14 that excludes the Sutter Health Care System, which has a  
15 nationwide reputation for having very high payment rates.

16           In San Diego, there was a development where one of  
17 the major medical groups that was also a hospital system  
18 called the Scripps system decided about three or four years  
19 ago it was through with contracting with health plans on a  
20 capitated basis, that it wanted to be paid fee-for-service.  
21 Health plans say this not only made their spending per  
22 person in Scripps much higher, but they launched some narrow

1 network products that excluded the Scripps system, and they  
2 have had some reasonable take-up for them.

3 Hospital and physician capacity is a factor, and  
4 there was a perception that in the mid-1990s, in particular,  
5 in California there was very substantial excess capacity,  
6 both hospitals and physicians, and this certainly undermined  
7 the providers' leverage in negotiating with health plans.  
8 There's a perception today that the capacity in both  
9 hospitals and physicians is very tight. I think some of the  
10 factors behind it are there's been rapid population growth  
11 in some areas and physician shortages appear most acute in  
12 the non-coastal areas. Some respondents say it was because  
13 they're not as attractive to live, but also, that's where  
14 the more rapid population growth has been, and even if they  
15 were as attractive to live, that could be a factor.

16 I know California has seismic standards that  
17 hospitals have a deadline of meeting. I think it's 2014.  
18 The standards are stricter along the coast than in the  
19 interior. And I think it's likely that those seismic  
20 standards, one of the implications has probably shifted some  
21 financing capacity in hospitals away from expansion towards  
22 replacement of facilities that just don't make the

1 standards.

2           And also, there may be some lingering effects of  
3 plan leverage in the 1990s. A lot of hospitals in  
4 California went under in the 1990s when their rates were  
5 really low. Perhaps that capacity was rechanneled into  
6 other hospitals or maybe some of it left the industry  
7 completely.

8           There is a regulatory issue that I suspect is  
9 fairly unique to California but which is relevant.  
10 California has a problem of different regulators for HMOs  
11 and for many PPOs, or PPO products, and the HMO regulation  
12 is very strict and really comes from the era of you've got  
13 to do a lot to protect consumers. Particularly make sure  
14 they have an adequate provider network. So if a health plan  
15 wants to drop a hospital from its provider network because  
16 the demanded price is too high, the plan has to go and get  
17 permission from the Department of Managed Health Care to do  
18 that, and respondents say that it takes forever, that  
19 permission is often denied, and that in the interim, the  
20 plan is going to have to reimburse full charges. So that is  
21 really not an option for HMO plans. It is for PPO plans  
22 that don't face that regulation.

1           There has been substantial horizontal integration  
2 in California, both hospitals and medical groups. And now  
3 the two largest systems are the Sutter Health, which has 18  
4 hospitals in Northern California, and Catholic Healthcare  
5 West, which actually has a total of 33 hospitals, but  
6 throughout the State. And with systems, they can negotiate  
7 for the entire system, which is going to be a mixture of  
8 hospitals that are very important to have in your network  
9 and hospitals that you could do without. But if they are in  
10 that system, they will benefit from the system-level clout.

11           One recent development we heard about is that the  
12 University of California systems recently began negotiating  
13 as a system, and respondents commented to us, wow, what a  
14 bureaucratic organization. It took them this long to figure  
15 it out --

16           [Laughter.]

17           DR. GINSBURG: -- but that they really were doing  
18 quite well now negotiating as a system.

19           Another factor is -- and this is really within any  
20 community as to which hospitals or physicians have clout,  
21 which is we call it "must have" status. A lot of it is  
22 reputation. How important is it when consumers are looking

1 at a provider network to see that that provider is in the  
2 network? Many respondents refer to Cedar Sinai, you know,  
3 the hospital to the stars -- it is a very admired tertiary,  
4 quadranary care hospital -- has enormous reputation and gets  
5 enormous payment rates as a result. One respondent from a  
6 hospital that was in central L.A. and didn't have any clout,  
7 any "must have" status, said, oh, they must get four times  
8 what we get for similar services.

9           Some hospitals have clout because they are unique  
10 offerings of specialized services. For example, if you are  
11 a Level 1 trauma center, that's really important. That can  
12 generate -- you know, you lose a lot of money because of the  
13 uninsured patients, but that gives you more clout in  
14 negotiating rates with private insurers. Some hospitals or  
15 medical groups have geographic isolation. You have to have  
16 them in your network or it'll really be a lousy network. In  
17 some cases -- I don't know if we had any examples in  
18 California, but I recall some from Miami, where a hospital  
19 is the hospital for a particular ethnic group. So for that  
20 group, that hospital being in the network is very, very  
21 important.

22           And I've talked about the "must have" status. We

1 saw many hospitals in different parts of California that did  
2 not have that "must have" status and they had much less  
3 leverage. They were struggling as far as the payment rates  
4 that they could get.

5           Let me say something about joint hospital-  
6 physician negotiation, that hospitals have been successful  
7 in California in applying their leverage to rates for the  
8 physicians that are affiliated with them, usually through a  
9 foundation. And the degree of affiliation between  
10 physicians and hospitals appears to be growing rapidly.  
11 It's very attractive to physicians, both because it gives  
12 them access to higher payment rates -- and I would say that  
13 it was clear that small practices in California were getting  
14 rates that were less than Medicare and large practices were  
15 getting rates substantially above Medicare.

16           You know, there are many other reasons why it's  
17 attractive to physicians. Many hospital respondents told me  
18 that they were forming medical groups, particularly in  
19 primary care, because new or young physicians want, they  
20 call it in the jargon, a salaried platform. Basically, they  
21 don't want to be an entrepreneur, run a practice. They want  
22 to go and work for someone for a salary. So aside from

1 leverage or market power, many hospitals are forming  
2 physician groups really as a recruiting device.

3           Now, this, on the one hand, means that a market  
4 like California is moving towards greater potential for  
5 integration if being in the same organization is turned that  
6 way. I don't know that it necessarily will. I think under  
7 today's payment incentives, basically the motivation for  
8 hospitals to get physicians into their fold is the age-old  
9 one of get physicians who will admit patients to the  
10 hospital. The motivation for physicians is to get higher  
11 payment rates. So it's quite possible that this coming  
12 together just leads to really exploiting the current  
13 incentives of the fee-for-service system. One of the  
14 respondents referred to it as fee-for-service capitalism,  
15 and the contrast was in the delegated capitated model, which  
16 he thought was the opposite.

17           There's a trend towards larger medical groups and  
18 IPAs. Some of the consolidation, I think, resulted from the  
19 low payment rates in the 1990s as well as the opportunities  
20 with the delegated model. And I should say, what is the  
21 delegated model? This basically is health plans contract  
22 with usually physician groups or IPAs at least for their



1 professional services on a capitated basis and they delegate  
2 the responsibility for managing utilization, other  
3 functions, to the capitated entity. This has remained in  
4 California. It never took off that much in other parts of  
5 the country, perhaps because they lack the infrastructure of  
6 the large physician organizations to contract with. It's  
7 still pretty popular among physicians and health plans in  
8 California, although we see a number of factors leading to a  
9 very slow erosion of that model.

10           So I mentioned the higher payment rates. Also,  
11 antitrust policy generally limits IPA, Independent Practice  
12 Association, negotiation with health plans to when they're  
13 negotiating capitated rates as opposed to if it's a -- they  
14 can't negotiate a PPO contract with fee-for-service rates,  
15 generally. But there are exceptions for IPAs that are  
16 clinically integrated, and one of the major ones in San  
17 Francisco, called Brown and Toland, was -- very proudly told  
18 us that they had been granted this status, that they were  
19 FTC and that the Justice Department decided that they were  
20 clinically integrated and thus they could negotiate with  
21 PPOs as a body.

22           There have been some moderating influences. It's

1 not all one side. One of them is concern about higher  
2 premiums eroding employer-based coverage. One factor, I  
3 think, unique to California is competition with Kaiser  
4 Permanente, so that a large hospital system might say, well,  
5 if we extract the most we can from insurers, it means that  
6 the premiums for non-Kaiser products are going to be higher  
7 and ultimately all of the non-Kaiser providers will lose  
8 their market share to Kaiser if we push the rate up too  
9 high. I suspect given tragedy of the commons, this probably  
10 applies only to the very largest hospital systems.

11           So what's the outlook for the future? I see from  
12 -- I can see today a continuation of this trend towards  
13 greater provider leverage. Perhaps there will come a point  
14 where providers are sated. In a sense, they'll say, rates  
15 are high enough and rates will just go on the same trend  
16 that costs do.

17           We do see a demand side response, as I mentioned  
18 before, some narrow network products. And also, there are  
19 some benefit structures, although they really developed  
20 fairly slowly, that incorporate incentives for provider  
21 choice.

22           Which brings us to policy. Certainly, I think

1 Marty discussed what potential there might be for -- I think  
2 there is more vigorous antitrust enforcement today. You  
3 know, frankly, I think a lot of this is the cat's out of the  
4 bag. I don't see antitrust policy outdoing a lot of the  
5 consolidation we have today, although actually, if one was  
6 undone, it might really be a deterrent to others as far as  
7 their payment rates if they fear that.

8           You know, it's something where as far as market  
9 forces, it really surprised me, and maybe I'm getting to  
10 understand it better, how for many years, there's been great  
11 resistance about designing benefits structures that actually  
12 would translate or provide patients strong incentives to  
13 favor providers that work less expensive. I think people  
14 don't want that, which says -- and the implication is, well,  
15 if there really isn't a market solution, should we start  
16 talking about regulatory solutions?

17           More people these days bring up the Maryland all-  
18 payer rate setting system for hospitals. The one comment I  
19 want to make about Maryland -- there's a really good paper  
20 in the last issue of Health Affairs by the current Director  
21 of the Maryland Commission -- is that I think Maryland  
22 lasted, whereas all the other hospital rate-setting systems

1 in the Northeast were abandoned in the 1980s. And I think  
2 the reason is the governance, that the Maryland system has  
3 governance where it's pretty independent. The Governor  
4 appoints the Commissioners. They have long terms. I think  
5 they're volunteers. They make the decisions. Their  
6 decisions are final. They're open to hearing from  
7 hospitals, from the health plans, and other interests.

8           And I think the difference between the Maryland  
9 model, and take what New York did, where it was the health  
10 department that was the entity that set the rates and the  
11 hospitals just hated it all through, that should the idea be  
12 considered again, I think it's going to be really important  
13 to focus on the right models of governance for them. Thank  
14 you.

15           MR. HACKBARTH: Marty and Paul, that was terrific.  
16 This is a topic that is of particular interest to me. As  
17 Paul knows, my first mentor in health care was Clark  
18 Havighurst, who was an antitrust professor, so antitrust law  
19 was really my introduction to health care.

20           We will proceed as usual with multiple rounds of  
21 questions and comments. The first round is clarifying  
22 questions. So could I see hands of Commissioners with

1 clarifying questions? Peter?

2 MR. BUTLER: This is for staff. Maybe it's a  
3 comment. On slide 11, you have the New Jersey insurance  
4 numbers, and something doesn't look right to me, because hip  
5 replacements, Medicare, for example, pays a lot more than  
6 the rates shown here. You can barely get an implant for the  
7 \$3,000 that is the purported payment for hip replacement.  
8 Just as an example, that --

9 MS. MUTTI: I have a footnote. Do you want me to  
10 read the footnote to it? I don't have it there. I have it  
11 on the copy that I brought with me. The definition there is  
12 the surgical per diem for total hip replacement. Average  
13 length of stay, three days.

14 MR. BUTLER: Oh, so that's just the per diem.  
15 Okay.

16 Secondly, a question is that it's interesting, the  
17 Milwaukee market data that shows that hospital index is a  
18 lot higher. I'm sitting in Chicago. I'm aware of that, and  
19 actually the managed care payments are a lot higher in  
20 Milwaukee. I'm not sure of all the reasons. But you would  
21 think that -- as we have looked at efficient providers and  
22 what happens when they're on financial stress and so forth,

1 their costs are lower, et cetera, have we looked at it at a  
2 market level like that? So somewhere like Milwaukee, you  
3 would think that maybe the costs would be higher, in fact,  
4 because overall, the market is extracting higher rates from  
5 the private side. Have we looked at it that way?

6 DR. STENSLAND: [Off microphone.] A few years  
7 ago, we did that. We looked at efficient providers, kind of  
8 more before the efficient provider analysis, we had a  
9 financial pressure analysis.

10 MR. BUTLER: It would be interesting to look at it  
11 at the market level, not just at the individual provider  
12 level as a --

13 DR. STENSLAND: And we did it fairly  
14 simplistically, looking at the Herfindahl Index, which is a  
15 measure of competition in each market, and there was some  
16 translation to -- a little bit of a translation from the  
17 level of competition in the market to the costs in the  
18 market. We don't have the intermediate step of the private  
19 insurers' prices, but the idea is when they have more  
20 concentration, they can extract higher prices. When they  
21 have more revenue, they can have a little higher costs.

22 I think we did it and it worked out, but it is a

1 little bit weak in that we're using this model of  
2 competition where we're assuming that there's a Medicare  
3 price, because we're using this Herfindahl Index. There's  
4 like a market price across the whole market. We didn't get  
5 down to the level of detail where we could look at the  
6 individual providers' prices that they were getting to see  
7 how that affects their individual costs. I think that would  
8 be probably a more useful study, is if we could actually get  
9 to that level of detail.

10 DR. MARK MILLER: Jeff, the other thing I thought  
11 you would say is -- and I think I've got this right, if I  
12 understand the question -- when we were looking at the  
13 fiscal pressure analysis that got published in the March  
14 report, there were also a couple of media reports in markets  
15 where concentration or things had gone on, and we did take a  
16 look just -- not systematically, not scientifically, but  
17 looked at a couple of markets and the Medicare costs turned  
18 out the way you would have expected, meaning that they were  
19 higher in those markets. So there were a couple of things  
20 that we looked at just on a spot basis.

21 DR. STENSLAND: Yes, so that was -- we have our  
22 theory. And then there would be certain newspaper articles

1 that would identify individual hospitals as having lots of  
2 market power. So then we looked at those individual  
3 hospitals that were identified as having market power, where  
4 the newspaper identified their pricing structure, to see  
5 what was different about their costs relative to other  
6 providers' costs in the same market, and we did see much  
7 higher costs in the providers that were identified as having  
8 high market power, or as Paul would say, the "must have"  
9 hospital in the market.

10 MR. BUTLER: My question, though, is if you take  
11 the overall market, not just the individual players within  
12 the market, is there a pattern?

13 MR. BERTKO: Nice presentation. I'm going to go  
14 with a question that kind of is based on Paul's last slide,  
15 which is policy options, but address it to the whole panel  
16 here. As I see it in a clarification, we certainly have  
17 talked about antitrust. Secondly, there's the Maryland  
18 example out there. Are there any other decent alternatives  
19 that are either around anywhere or talked about in the  
20 academic literature on these kinds of things? I mean, on  
21 one level, it might be connected to MedPAC analysis and the  
22 version of the efficient hospital cost structure as a



1 triangulation point, but are there any mechanisms that  
2 academics have been talking about?

3 MR. HACKBARTH: Can I just ask that we hold that  
4 question for a second, just to see if -- because I think  
5 this is going to be a rich conversation. So let's just see  
6 if there are other narrow clarifying questions before we  
7 delve into the big ones.

8 DR. BERENSON: I thought Paul gave a brilliant  
9 presentation, but I actually have --

10 [Laughter.]

11 DR. BERENSON: -- have a question for Marty, who  
12 also gave a brilliant presentation. Paul had actually  
13 mentioned this exemption that the FTC can grant for clinical  
14 integration. In your presentation, you emphasized there's  
15 not much literature one way or the other, I think, about the  
16 virtues of clinical integration, and yet one of the impacts  
17 of the designation is to get market power to drive up  
18 prices. What are the agencies thinking they're  
19 accomplishing? Do you have the history of that?

20 DR. GAYNOR: That's a good question, Bob. That  
21 goes back a ways. There were some joint statements by  
22 Federal Trade Commission, Department of Justice, on health

1 care, and at the time -- I think this was early on -- there  
2 wasn't a lot of evidence. But they wanted to allow medical  
3 practices the opportunity to try and integrate to gain  
4 efficiency. They didn't want to stand in the way of that.  
5 So they did allow these windows. I don't think their intent  
6 was at all to allow for increases in market power, and they  
7 certainly have come down on medical practices when they  
8 thought there were violations of antitrust law.

9 I believe that the Federal Trade Commission and  
10 the Department of Justice are actually working on rewriting  
11 these statements, but I don't know any of the details at  
12 this point in time. So I think that actually bears into  
13 these larger questions of policy.

14 Does that get at your question?

15 DR. BERENSON: Yes.

16 DR. KANE: This is great. I'm enjoying it. And  
17 I'm glad to see that Boston is not the only market where  
18 there are dominant favored providers that achieve leverage  
19 over the insurers.

20 But just a minor question, Martin. On your slide  
21 about harm to competition and quality in this study that  
22 says Medicare found substantial increases in heart attack

1 patient mortality due to consolidation, and I'm just  
2 wondering, was that a longitudinal study of the change, or  
3 was that a cross-sectional? Was it really due to or was it  
4 just sort of looked like it might be associated with?

5 DR. GAYNOR: Yes, good --

6 DR. KANE: I'm surprised that it would be due to  
7 this --

8 DR. GAYNOR: Yes. So the authors are Dan Kessler  
9 out at Stanford, Mark McClellan who's now at Brookings, and  
10 I think they went to -- this was using secondary data, but  
11 they went to great pains to try and establish causation and  
12 they did have cross-sectional and longitudinal data.

13 Again, what they did find is areas where the  
14 hospital market was more concentrated, either fewer  
15 hospitals or sort of bigger market shares in the hands of a  
16 few, that the mortality outcomes were worse for Medicare  
17 beneficiaries with AMI. And again, this is a black box in a  
18 sense. They found this and they did go to great pains to  
19 try and establish a causal relation, and I believe it is  
20 plausibly statistically causal, but exactly what's happening  
21 behind all those things, their study did not address.

22 DR. MILSTEIN: Has anyone studied the relationship

1 between either high or rapidly rising commercial payment  
2 rates to physicians and the availability, maybe on a one- or  
3 two-year lag basis, of new physician relationships to  
4 Medicare beneficiaries? I'm thinking about the connection  
5 here between this phenomenon, which is obviously painful for  
6 anybody paying private insurance premiums. I'm thinking  
7 about issues in terms of ripple effects on Medicare  
8 beneficiaries and one of the early signals is whether  
9 physicians' practices are open to new Medicare beneficiaries  
10 -- new patients, new Medicare patients. And so the question  
11 is, did anyone ever examine the relationship between either  
12 absolutely high or rapidly rising physician prices and  
13 whether or not physicians are willing to take ne Medicare  
14 beneficiaries?

15 DR. GAYNOR: I think there's probably better  
16 prospects for doing the cross-sectional study than the --  
17 because there, you have a lot of variation. It's really --  
18 well, it's shown in the GAO study. It's really enormous.  
19 But I'm not aware of anyone that's studied it. Over time,  
20 it would be more challenging, because at least my sense from  
21 the site visit work is that there really aren't private  
22 insurer payments to small practices in relation to Medicare

1 has not been changing much, so it wouldn't be -- so the  
2 increases would only be for the large practices.

3 MR. HACKBARTH: Paul, let me ask you about that.

4 DR. GAYNOR: If I may, just --

5 MR. HACKBARTH: Oh, sure.

6 DR. GAYNOR: -- I want to second that. I'm not  
7 aware of any research on that, but it would be great. The  
8 one -- I can't think of specific studies, but I believe  
9 going back a ways, there was work done in that with regard  
10 to Medicaid payment, so -- now, Medicaid and Medicare, of  
11 course, are not the same program in lots of ways, but at  
12 least if we see those patterns with regard to Medicaid, it  
13 might make us worry with regard to Medicare. Sorry. Excuse  
14 me.

15 MR. HACKBARTH: Paul, I have a vague recollection,  
16 and maybe an incorrect recollection, about some work that  
17 you folks did three or four years ago where you looked at  
18 the relationship between Medicare and private fees and how  
19 they varied across markets, and I thought that part of that  
20 was you found no relationship between that and a willingness  
21 of physicians to take Medicare beneficiaries.

22 DR. GINSBURG: Oh, yes. Yes, you're right. I'm

1 glad you brought that up, that we -- I don't remember the  
2 study too well, but I can see that we would have the data to  
3 do that.

4 DR. CHERNEW: A student of mine has a study  
5 looking at markets where there's a lot of uninsured  
6 patients, which makes it, like, lower, and what does that do  
7 for the access for the insured, and actually doesn't find a  
8 connection.

9 MR. GEORGE MILLER: Yes, thank you. This is for  
10 staff. On slide 7, you talked about the share of hospitals  
11 employing physicians continues to grow and for several  
12 reasons. Would any of those reasons -- can you separate the  
13 growth into categories, where hospitals have employed ED  
14 physicians, hospitalists, internists, neonatologists, and  
15 employed physicians because of call pay issues, and what  
16 percentage of that growth would be attributable to those  
17 factors?

18 DR. STENSLAND: We didn't provide all the details,  
19 but this all comes off the AHA annual survey --

20 MR. GEORGE MILLER: Right.

21 DR. STENSLAND: -- and they ask them, do you  
22 employ physicians to provide primary and specialty care. So

1 the idea is that they're trying to take out the kind of  
2 folks that they employ -- anesthesiologists or pathologists  
3 or people on call, to take that all out of there, and that  
4 wouldn't be in that chart.

5 MR. GEORGE MILLER: But hospitalists would and  
6 intensivists for if a primary care physician is staying in  
7 his office so that they can take care of those patients in  
8 the hospital. That would be included in the number.

9 DR. STENSLAND: I guess some people might  
10 interpret the question as that. I would probably --

11 MR. GEORGE MILLER: At least, I did.

12 DR. STENSLAND: I would probably not interpret it  
13 that way, but since you're a hospital administrator, you  
14 might have been filling out the survey -

15 [Laughter.]

16 DR. STENSLAND: -- so maybe that's an indication  
17 of what's in there.

18 MR. GEORGE MILLER: And a follow-up, please, to  
19 Nancy's question, very, very briefly. On the same question  
20 Nancy asked about the substantial increase in heart attack  
21 patient mortality due to consolidation, do you have the  
22 demographics? Is that any group? Could you tell if that's

1 out of a certain census tract or socio-economic or  
2 demographic information?

3 DR. GAYNOR: Yes. I mean, I'm not the author of  
4 that study, but they used these national data on Medicare  
5 beneficiaries for multiple years, so it did cover the entire  
6 country. As far as differential effects on subpopulations,  
7 I don't recall the details of the study well enough to  
8 answer that.

9 DR. GINSBURG: I would say the point that Dr.  
10 Miller raised shows that it's kind of dicey to rely on a  
11 survey of hospitals to track employment of physicians. You  
12 know, just one thing I would mention is that in Milwaukee,  
13 which I had gone for a different project, we're told by  
14 everyone that essentially all of the physicians in Milwaukee  
15 are now employed by one of the five hospital systems. So  
16 there's a very powerful trend that's gone beyond categories  
17 like hospitalists, where you'd expect employment, to areas  
18 where traditionally there hasn't been employment.

19 MR. HACKBARTH: Other clarifying questions?

20 DR. STENSLAND: I might just clarify my statement  
21 to George. People might think that, oh, that growth is just  
22 hospitalists, but we also looked at data from the MGMA on



1 their group practices and they also show an increase in the  
2 share of the MGMA group practices that are employed by  
3 hospitals as opposed to being independent. So it looks like  
4 it's more than just hospitals.

5 DR. BORMAN: I have a question for each of you.  
6 First, Dr. Gaynor, you, I think, said -- and correct me if  
7 I'm wrong -- that when integration produced substantial  
8 savings to a system, that it stemmed in many cases from the  
9 ability to reduce facilities, duplicative facilities, and it  
10 really was taking out capacity, if you will, or taking out  
11 excess capacity. Did I interpret that part correctly?

12 DR. GAYNOR: Yes. I think not necessarily  
13 reducing overall capacity, but certainly reducing --  
14 combining the facilities in a meaningful way, not just  
15 combining ownership.

16 DR. BORMAN: So instead of having the five  
17 neonatal units, you now had one and the others were a Level  
18 2, and instead of having five Level 3s, you had one Level 3  
19 and two Level 2s feeding the Level 3 and some of those kind  
20 of things.

21 DR. GAYNOR: You might be doing exactly the same  
22 volume as you were before in two separate facilities, but

1 you've integrated --

2 DR. BORMAN: Right. Okay. So have you  
3 encountered, or Dr. Ginsburg encountered any activity where  
4 there was an analogous physician situation that you  
5 actually, by taking out physician excess capacity, that  
6 there was actually a reduction of physicians that was driven  
7 by this sort of reduction of capacity, that you had too many  
8 cardiologists or too many folks in a loss leader kind of  
9 area, like trauma, for example?

10 DR. GAYNOR: I'm not aware of that. I mean, Paul  
11 may be able to answer more precisely. I don't -- my sense  
12 is not that with physicians, that there is not the same  
13 sense of excess capacity that there was in a hospital, say,  
14 going back to the 1980s and the 1990s. There probably  
15 wasn't the drive for that kind of thing. And by the same  
16 token, sort of overall, there hasn't been so much concern  
17 about hospital anti-competitive effects in the physician  
18 market, with some exceptions.

19 DR. GINSBURG: Yes. I've never heard any  
20 discussion in conjunction with a hospital merger that one of  
21 the objectives was to reduce physician capacity. That's all  
22 focused on the facilities.

1 DR. BORMAN: And then my last piece would be,  
2 since my life is grounded in graduate medical education,  
3 your comments about the expectations of today's entry-level  
4 generation of practicing physicians, I think, are right on  
5 and even more so and would ask that if as part of any of the  
6 integration activities that you've studied or observed, is  
7 debt forgiveness or loan repayment transfer any part of what  
8 goes on in that -- as an offer to help get the physicians to  
9 integrate?

10 DR. GINSBURG: I can't -- I don't know the answer  
11 to that question, but my sense is that unlike the initial  
12 wave of hospital acquisition of physician practices, I guess  
13 in the early 1990s, which went so badly, my sense is that  
14 hospitals are not that overly eager to do anything to get  
15 physicians aligned with them. I think it's more -- I think  
16 a lot of it is, we have an opportunity to accommodate  
17 physicians and help ourselves at the same time, as opposed  
18 to we really need these physicians and we're going to  
19 forgive their loans to get them.

20 MR. HACKBARTH: So the impetus this time is coming  
21 from the physician side as opposed to the hospital side?

22 DR. GINSBURG: Yes, I think a lot of it is. I

1 mean, certainly, there's some hospital impetus. I mean, the  
2 hospital impetus is -- it's the longstanding impetus, and  
3 this is, I guess, affiliating with them is a more current  
4 tool, but yes, I think there's much more physician impetus  
5 today by both seeking the salaried environment, but also  
6 gaining access to higher payment rates. So you could have a  
7 situation where, let's say, physicians are less productive  
8 when they're employed by the hospital than in private  
9 practice, but if the rates are high enough, it still could  
10 be viable for the hospitals and the physicians could wind up  
11 with a higher income, despite their lower productivity.

12 MR. HACKBARTH: Okay. Let's go to round two, and  
13 since John has been patient, I'll let him be first, and then  
14 Mitra.

15 MR. BERTKO: Paul, shall I restate the question  
16 again, or --

17 DR. GINSBURG: I think I wrote it down.

18 MR. BERTKO: Okay. Then I'll let you answer, and  
19 then I have a follow-up question.

20 MR. HACKBARTH: It would be good if you'd restate  
21 it.

22 MR. BERTKO: Okay. So my question was, beyond

1 antitrust enforcement, the Maryland style all-payer type of  
2 thing, are there other methods of looking at contracting and  
3 cost control that we should think about, and in particular  
4 does the academic world have any thoughts about this that we  
5 might -- might bear on further investigation, my comment  
6 being that we have a triangulation point on costs from work  
7 that MedPAC does looking at the -- certainly on the hospital  
8 side at the efficient hospitals and knowing what the cost  
9 structure would be.

10 DR. GINSBURG: Yes. Let me begin. Actually, your  
11 question motivated me to want to go in somewhat more detail  
12 about what are the options on the demand side, and I can  
13 begin with two.

14 You know, there was a response, maybe going back  
15 about almost ten years, to create tiered networks for  
16 hospitals, and the notion was that there be incentives to  
17 patients or enrollees to favor the hospital that the insurer  
18 had negotiated a better price, and, of course, the quality  
19 was thrown in, too, you know, the ones with better quality  
20 and a lower price. And for the most part, the hospitals  
21 with leverage were able to defeat them by simply saying,  
22 either we're in the preferred tier or we're not in your

1 network. So tiered hospital networks never really got off  
2 the ground.

3 Now, the physician version, which is called high  
4 performance networks, you know, that is in effect, where  
5 basically, usually on a specialty basis, private health  
6 plans measure the cost per episode of different physicians  
7 or physician groups and with whatever claims data they have  
8 measure quality, but it has not -- I don't think it's gotten  
9 very far, and pushback from physicians is not the problem.  
10 You know, the incentives -- most employers have just used  
11 that information for information's sake. It's just on the  
12 website. A few of them have given very modest incentives in  
13 the form of lower cost sharing for employees. Nobody has  
14 taken it much further.

15 The fact that each private insurer went about this  
16 on its own has undermined the credibility of the approach,  
17 because many physicians see that, oh, I'm preferred for  
18 BlueCross and I'm not preferred for Aetna, and it changes  
19 from year to year. So a combination of different methods,  
20 small sample size, I think, has undermined it.

21 I think the approach could go further,  
22 particularly if there was -- I think Mark McClellan is

1 experimenting with this -- of getting insurers together to  
2 be able to share data and use common measures. But there's  
3 still the question of how much are consumers or the public  
4 or are employers willing to go down this road.

5           Theoretically, the ideal demand side approach to  
6 this would be reference pricing. Basically, for a  
7 particular condition, you look at the lowest contracted  
8 price hospital in the area and that's the reference  
9 hospital. If people want to go to other hospitals, they pay  
10 the difference. I've never seen an example of that in use.  
11 So I think that there certainly are potential demand side  
12 approaches that I suspect could have some impact.

13           Now, I think some people would say that certainly  
14 the tax status of health insurance, you know, the tax  
15 subsidies to health insurance would certainly diminish  
16 interest in these demand approaches, and one aspect of  
17 health care reform that I can't predict is whether -- well,  
18 now it's not limit on the exclusion of employer  
19 contributions to health insurance, now it's an excise tax  
20 for Cadillac health plans -- whether a fairly strong version  
21 of that is in the final -- if there is a final -- reform  
22 legislation, you know, that could be very relevant to the

1 potential of these demand side approaches.

2 MR. BERTKO: So can I do the follow-up question?  
3 So one of the things we've been kicking around with some  
4 colleagues here, and Dr. Gaynor, I'll aim it at you since  
5 you've done antitrust, would be to use some form of binding  
6 arbitration in the following sense. We've got buyers that  
7 form an oligopoly, mostly large insurers. We've got  
8 sometimes monopoly sellers. I currently live in a community  
9 with a single hospital that has a stranglehold on it, and I  
10 five years lived in Northern Arizona with another single  
11 community hospital. Major league sports, baseball in  
12 particular, seem to get to binding arbitration on that kind  
13 of somewhat relevant basis. Is there a way that you think  
14 this could be made, or facilitated to work, or is it just a  
15 cul-de-sac that I've been asking about?

16 DR. GAYNOR: Well, I'm not 100 percent sure.  
17 Binding arbitration is used usually where there is one party  
18 on each side and they can't come to an agreement. And there  
19 are a number of markets that are dominated by, say, a large  
20 hospital system and a large insurer. Pittsburgh is  
21 certainly one of them, a pox on both of them.

22 [Laughter.]



1 DR. GAYNOR: I don't know that binding arbitration  
2 would make our lives better in Pittsburgh. They would agree  
3 on some set of prices through the arbitration as opposed to  
4 some other set of prices, but I don't see that's really the  
5 -- I see that as basically being a different division of the  
6 profits between these two parties, both with a lot of market  
7 power, as opposed to directly addressing the market power.  
8 But it could be that I'm not fully following what the  
9 thinking is on arbitration here.

10 MR. BERTKO: Can I ask one more follow-up, and  
11 then I'll stop, which is in the -- my understanding of the  
12 major league sports binding arbitration, which I toss into  
13 this, is each party comes to the point with an offer and  
14 then the arbitrator gets to choose between the two, and so  
15 it's to your disadvantage to be too far off in one direction  
16 or the other because you lose.

17 I just point out to anybody who has read the Post  
18 this morning, the story about the New Jersey hospital and  
19 Horizon BlueCross, and they are at odds and the people --  
20 they're trying to send people to the nearest community to  
21 the disadvantage of the people. In Arizona, where you have  
22 to drive 150 miles to get to the next large hospital, that's

1 a disadvantage. So this would be a mechanism to try to  
2 drive parties together that doesn't quite get to the  
3 Maryland version, but is -- I don't know. I'm just putting  
4 it out as being something better than the status quo.

5 DR. GAYNOR: Yes. It's an interesting idea. I  
6 guess I'd have to think about it a little bit more.

7 Let me say a couple other things about policy,  
8 though. I fully concur with Paul's point that if some kind  
9 of health care reform changes the tax treatment of health  
10 insurance, that could have beneficial impacts. We have no  
11 way of knowing what'll happen there. But that could really  
12 sort of cool the jets of the demand side impetus.

13 A couple other things to think about. One thing  
14 Paul mentioned is the issue about networks and how selective  
15 they are. The wind was taken out of managed care sales in  
16 large part because the networks included all providers.  
17 Well, if all providers know they're going to be in the  
18 network, then the managed care entity doesn't have a heck of  
19 a lot of bargaining power anymore.

20 So if there are things that can be done to  
21 strengthen the ability to build selective networks -- Paul  
22 mentioned this regulation in California I wasn't aware of

1 that currently is a barrier -- a lot of that, really,  
2 though, is based on demand from employers and employees, and  
3 if they don't want narrow networks, if employers aren't  
4 willing to have plans with narrow networks, then that won't  
5 matter.

6           One last thought is that thinking about providers  
7 that are "must have" providers -- Paul's term is a very good  
8 one -- this can fall within the realm of antitrust. There's  
9 a notion of things that are called essential facilities in  
10 antitrust. Usually, it's something like a port, where  
11 there's shipping that has to come in. But "must have"  
12 providers could have those characteristics, as well. It's  
13 designating those kind of providers as central facilities,  
14 requiring that they actually contract in a reasonable way  
15 with all entities, might be something to think about. And I  
16 think this actually is relevant for health reform more  
17 generally. Now, how to implement that, I don't know for  
18 sure.

19           MR. HACKBARTH: Although the "must have" providers  
20 in this context are often "must have" by virtue of brand  
21 name and reputation, as opposed to they have essential  
22 facilities that aren't available otherwise.

1 DR. GAYNOR: Yes, it could be, but there also can  
2 be, say, a very -- say a physician practice provides a very  
3 specialized kind of care, given the size of the market --  
4 pediatric oncology or something like that, or very high-end  
5 academic medical centers. So agreed.

6 MS. BEHROOZI: Thank you so much for all of these  
7 presentations. The question that I wanted to ask, or  
8 observation and then question, I think, is about price  
9 versus spending. In the paper that Jeff and Anne prepared,  
10 on page 18, you talk about how some markets with  
11 considerable integration are high-price markets, but then  
12 you also talk later about it's not the same markets. But  
13 then you talk about MedPAC's review of Dartmouth Atlas data  
14 showing that there are the four, I guess, best -- the  
15 lowest-spending areas are integrated markets also.

16 I guess I'd like to see what the correlation is,  
17 or if there is a correlation between prices and spending in  
18 those integrated markets, because really in the end, you can  
19 be penny-wise and pound-foolish, right? You can have low  
20 prices and end up having multiple hospitalizations or  
21 whatever as opposed to paying a higher price for a really  
22 successful hospitalization where the person never sees the

1 inside of a hospital again.

2           And that's something that I struggle with all the  
3 time, because, Dr. Ginsburg, your solution -- potential  
4 solutions for the demand side, which is where I sit in my  
5 day job, is -- I don't really have the opportunity to use  
6 reference pricing for hospitalizations because the members I  
7 cover work in all of the hospitals in New York City. So  
8 that's our network, all the hospitals in New York City. We  
9 negotiate prices with them, but we can't do things that are  
10 as aggressive as reference pricing, although we do that very  
11 aggressively with pharmaceuticals and certain other things.

12           So what we're trying to do, recognizing that high  
13 prices could still possibly get you good value, is work with  
14 one of the very few or maybe the only in New York City  
15 institution that could be considered somewhat vertically  
16 integrated on sort of a bonus system, a gain sharing system,  
17 where we're taking a target population and setting a target  
18 spend based on historical spend and hopefully seeing them  
19 coming in under the target, regardless of the prices, but  
20 the total spend comes in lower, and then figuring out a way  
21 to split that, to share that gain, and so sort of turning  
22 them into an accountable care organization or letting them

1     behave like one should they choose, of course, monitoring  
2     for quality all along the way.

3             So I just wonder if you have seen examples of that  
4     or what you think about that.

5             DR. GINSBURG: Well, actually, as you were  
6     talking, I was thinking about sometimes the potential  
7     confusion in language. I think at this meeting, the term  
8     integration has referred both to clinical integration of  
9     care and coordinated care. It's also been used as really a  
10    synonym for consolidation. And I think you were talking  
11    about the first one --

12            MS. BEHROOZI: I'm talking about really an  
13    institution that employs doctors and maintains a lot of  
14    outpatient facilities. Whether they, in fact, coordinate  
15    care, we'll, I guess, see in the outcome of this little  
16    experiment. But I really meant the financial and employment  
17    structure, the consolidation between the facility and its  
18    doctors.

19            DR. GINSBURG: Sure. Well, one perspective that I  
20    can offer that I think might be relevant is that in this  
21    ongoing debate about health care reform, there have been  
22    various phases of pointing to the Mayo Clinic and other

1 organizations that are highly integrated in a clinical way  
2 and the good work they do, and I don't know for sure, but I  
3 suspect that those organizations get very high rates from  
4 private insurers.

5 I think that with the payment system we use, it's  
6 probably the only way they can survive, because if you think  
7 of the fee-for-service payment system, these integrated  
8 organizations that aren't going to have a lot of  
9 readmissions and they're going to do things right the first  
10 time and do things efficiently, they're going to get paid a  
11 lot less by Medicare, by private insurers. So in a sense,  
12 until the payment system changes to be more supportive of  
13 that, I'm sure there will be examples of very expensive, as  
14 far as rates to private insurers, integrated systems that  
15 truly integrate care. And yes, it'll be worth it for those  
16 entities, but there will be some other organizations that  
17 are practicing in the old way of emphasizing volume that  
18 might also get higher rates because of their market power,  
19 and for those, we're not doing well by paying them a lot.

20 MR. KUHN: A quick question. Dr. Gaynor, on one  
21 of your slides, you had an interesting chart there that  
22 talked about from 1994 to 2000, about 900 deals, I think,

1 and then you also had a bit of a note that said you're  
2 starting to see an uptick on that again. And I'm just  
3 curious, both for you and Paul, if you could care to  
4 speculate or think about it, what does reform, do you think,  
5 drive us in this direction of what we might see over the  
6 next decade in terms of potential consolidations or  
7 integrations that might occur?

8           Some of the things that I've been reading on some  
9 of the blogs and others that have opined on this have  
10 indicated that in order to take full advantage for health  
11 care reform, we're going to see this new wave of  
12 consolidations as part of the process. Others have opined  
13 over the fact that it'll occur out of necessity because of  
14 some of the Medicare cuts and how they will differentiate  
15 between different types of providers. Some will be so  
16 weakened, they're going to need to get a partner in order to  
17 survive or they might go out of the marketplace altogether.

18           So I was curious from what you've seen, what  
19 you've heard from others speculating, what do you think  
20 we're going to see over the next five to ten years in market  
21 trends in this area?

22           DR. GAYNOR: Maybe Paul can say something more



1 definitive. I really don't know. There already has been a  
2 tremendous amount of consolidation, so in some sense, there  
3 may not be -- in the hospital market. There may not be a  
4 huge number of opportunities left. A lot of hospitals are  
5 now operating very near capacity, much differently than ten,  
6 15 years ago. So it's not entirely clear to me. If there's  
7 continued pressure on revenues on hospitals, then we may see  
8 some more closures and exits, which would consolidate the  
9 industry. I'm not so clear on whether we're likely to see  
10 mergers or acquisitions. That's hard for me to say.

11 DR. GINSBURG: Well, Herb, most of the discussions  
12 I've been in about likely consolidation in the future have  
13 focused on the big picture payment reforms, the episode  
14 payment accountable care organizations, about how they might  
15 encourage consolidation. And I think one way of thinking of  
16 it is like this. You know, clearly, major changes in  
17 payment system will be more effective if it's not just  
18 Medicare, but if it's designed so that private insurers can  
19 do parallel things with their payment. But, you know, you  
20 have a situation today where you could have a bunch of  
21 providers that are not -- are not allowed to negotiate with  
22 plans jointly, but if the payment system is accountable care

1 organizations, all of a sudden they can.

2           So the way private insurers see this, oh, this  
3 would be awful. They can come together to negotiate with  
4 us. You could even get private insurers deciding, well, we  
5 won't pursue that because we can negotiate with them  
6 separately with current antitrust rules, but if they come  
7 together -- so in a sense, if some major reforms in provider  
8 payment move forward, I think it's going to change the whole  
9 nature of the discussion about market power, about rate  
10 setting entirely.

11           MR. BUTLER: Two comments and a kind of a  
12 question. The first is on the earlier chart that showed the  
13 decline in PHOs and the increase in employment, I think you  
14 left us with the impression that this was occurring for  
15 pricing reasons, or at least maybe that's the most important  
16 reason, and I don't think that's true. I think, first, on  
17 the PHO decline, it's because of, one, the decline in the  
18 accepting capitated payments, and two, not unrelated, at  
19 least in our market in Chicago, the FTC has been fairly  
20 visible in terms of if you don't have clinical integration,  
21 if you are not sharing risk, these things are not legal  
22 entities. So they've either directly or indirectly forced

1 the unwinding of some of the PHOs.

2           The employment increase, I think it's true that  
3 hospitals look to employment to capture business, if you  
4 will, the patients and doctors, there's no doubt about that,  
5 but I don't think they say, oh, I'm going to do this so I  
6 can get higher prices. I think on the doctor's side, they  
7 want some financial stability, but they don't principally go  
8 to employment because they want to get paid more. They want  
9 to eliminate the hassle factor in their office, which has  
10 grown to be an enormous part of their expense. They want to  
11 practice medicine the way they were trained to practice  
12 medicine. And they want also, more lately, the IT solution  
13 in a standardized kind of way. So I think there are other  
14 factors other than the pricing that are creating this  
15 integration that are likely to kind of continue, regardless  
16 of the economic issue.

17           With respect to the -- this is obviously an  
18 important issue. I don't know anybody who likes the current  
19 emotion, time, money we put into contracting, no matter what  
20 side you're on. It's just an enormous amount of energy and  
21 money and, frankly, waste in the system. If we could find a  
22 better way to do this, I would be all for it.

1           I look at Chicago, and it's interesting. There  
2 are differences, as we pointed out, between where there is  
3 market aggregation and leverage due to just pure size  
4 versus, call it brand. So in Chicago, the largest hospital  
5 has a five percent market share. There are 100 hospitals.  
6 The largest has five percent, and the largest system,  
7 Advocate, approaches 15 percent. There is one system, North  
8 Shore University Health System, which got scrutinized by FTC  
9 that has a smaller market share, but it's all in one  
10 geography, so that may be an exception where, because of  
11 size, they can extract prices.

12           So I would sit there and say, well, what the heck.  
13 So the "must have" is all about brand. We've got five  
14 academic medical centers within miles of each other that  
15 have the high-end stuff, so you don't need all of us, in a  
16 sense. And you have a BlueCross plan with over half of the  
17 market share. So you think that they'd be in a position to  
18 really exert market power, and they do to a point. They're  
19 still -- they go to the employer and they say, you know,  
20 they don't say, well, we're going to exclude them and  
21 therefore your premium can be X-amount lower.

22           The employers, you're right, they do say, I want

1 everybody in and the consumer himself is still shielded from  
2 whatever Mike might say the price elasticity is of the --  
3 and we're still in a market where people want to go where  
4 they want to go, when they want to go, to see who they want  
5 to see, and we have not got skin in the game, or the  
6 insurers or the employers or even individuals saying, it's  
7 less, it costs less, therefore, I'm going to see it in my  
8 own pocketbook. I think that's still at the heart of the  
9 problem that we haven't quite gotten to.

10 MR. HACKBARTH: Can I just pick up on that, and  
11 then you can respond to us both. In your presentations,  
12 neither of you focused on the growing concentration in the  
13 insurance business, which in some ways is equally, if not  
14 even more, dramatic. And you would think, well, these  
15 powerful consolidated insurers might be able to confront the  
16 powerful consolidated providers.

17 But in order to make that work, you need the  
18 ability to say to one of the providers, you're not in the  
19 network. And so long as there's not sufficient demand for  
20 that product, there's just not the ability of the insurer to  
21 say, okay, you won't come down, you're out and I'm going to  
22 steer people elsewhere. So you've got to have the cost

1 conscious demand as part of the formula, and I would agree  
2 with Peter, that seems to be a critical missing element.

3 DR. GINSBURG: Yes. As far as the consolidation  
4 of insurers, of course, insurers are intermediaries, so to  
5 the degree they have market power, the next question is,  
6 where can they exercise it? Is it vis-a-vis the providers  
7 or vis-a-vis their customers?

8 You know, I've never studied this, but my sense  
9 from talking to people is that the large group part of the  
10 insurance market is pretty competitive. I think it's  
11 because it's become a national market. And insurers don't  
12 make a lot of money there. They make their money with the  
13 small groups and the individuals, where at least market  
14 power on the consumer side maybe is more significant.

15 I think the fact that it's difficult to compare  
16 insurance -- it's not a commodity market from the consumer  
17 side, and it's really hard to say what it's done on the  
18 provider side. Perhaps with small physician practices,  
19 whose reimbursement seems very low, perhaps that's had an  
20 effect there. And, of course, politically, the major entity  
21 that's complaining about that has always been the American  
22 Medical Association. I don't think you hear it from the

1 American Hospital Association because perhaps it's not that  
2 much a problem to, at least, many hospitals. I'm sure for  
3 some it is.

4 So I suspect that insurer market power vis-a-vis  
5 providers probably is an issue for providers, and in large  
6 groups, it probably gets passed on to the employer  
7 purchasers, perhaps in small groups, individuals, less so.

8 DR. GAYNOR: I don't have a lot to add. I agree  
9 with both your statements. Obviously, if employers don't  
10 have a demand for products that would lead the  
11 beneficiaries, enrollees to be more cost conscious, then  
12 insurers are not going to provide them. They will sell what  
13 people want to buy.

14 As far as the insurance market, yes, there is some  
15 evidence that there is some concentration. There is some  
16 research evidence that premiums on average tend to be higher  
17 where markets are more concentrated. One of my Ph.D.  
18 students has done some work indicating that hospital prices  
19 are lower in more concentrated insurance markets. That is  
20 kind of preliminary work. I wouldn't lean too hard on that,  
21 but that is at least consistent with the kind of story you  
22 were telling.

1           But, yes, at the end of the day, if folks really  
2 just want to have generous insurance policies, then there is  
3 not going to be a lot to drive the prices down.

4           DR. GINSBURG: Actually, one more thing. On the  
5 first thing about the clout of an insurer which has broad  
6 networks, I remember during the early days of managed care,  
7 some of these extreme contrasts between the very substantial  
8 market power that fairly small HMOs had because they had a  
9 narrow network, as opposed to Blue Cross, which was  
10 committed to a broad network, and despite its size really  
11 had no clout at all.

12           Today the situation seems to be that insurers only  
13 sell broad network products, and the bigger you are, the  
14 better the prices you get. So Blue Cross plans tend to get  
15 lower prices, and so in this way -- let me see. I lost my  
16 train of thought. Sorry.

17           DR. SCANLON: Thank you very much. I actually  
18 think this is probably one of the most important topics that  
19 we could be talking about and that is also the least  
20 understood by the public in general and by policymakers as  
21 well.

22           I think it is certainly an example of market



1 failure, and while there are market failures that I think we  
2 can probably ever eliminate in the health care sector, this  
3 is one we let get worse by not paying attention. And so  
4 there is kind of a question of what we do about it now. And  
5 I would like in some respects your reactions from a MedPAC  
6 perspective in two areas.

7           First of all, physicians. There is a risk of  
8 working from anecdotal information. I have been on a series  
9 of site visits that the National Health Policy Forum has  
10 done to look at markets and how they operate, and one of the  
11 striking things with respect to physicians in a number of  
12 these markets is the growth of single-specialty groups. And  
13 we are talking unbelievably dramatic growth in these groups,  
14 and motivated principally -- and this is in their words --  
15 by market power and the successful use then of that market  
16 power.

17           And so I guess, you know, I would ask sort of you  
18 in terms of your concerns about this phenomenon, and from a  
19 MedPAC perspective what I think is that it is not really  
20 something that we can necessarily do anything directly  
21 about, but we can be warning people about sort of when we  
22 talk about consolidation in any report that we do.

1           The second area is the question of hospitals, and  
2 there is mention in our briefing materials and in literature  
3 I have seen before about how the number of MSAs that have  
4 gone to highly concentrated increased dramatically. But  
5 when you look at the starting point, it was already high.  
6 And I think it deals with what you called the "must haves,"  
7 which is that we have got markets that are small enough that  
8 you are not going to have a whole set of competing  
9 hospitals. I mean, it would actually be very inefficient to  
10 have a whole set of competing hospitals. So that we are  
11 going to have to deal with, in some ways, natural  
12 monopolies, natural oligopolies. And so how you deal with  
13 that is a question, I think, that we have to address.

14           And, Paul, you said that the cat is out of the  
15 bag, sort of undoing things is probably impossible, and I  
16 have exactly that kind of reaction, though I would ask  
17 Marty, you mentioned the FTC's recent win, and I am assuming  
18 that you are referring to the Evanston case. And the  
19 question is: Is there a remedy there that we can learn  
20 from? And that is one part of the question.

21           But from a MedPAC perspective, again, I think it  
22 is this thing we have talked about, which is that costs in

1 some respects are a function of available revenues, and so  
2 how we interpret the costs that we observe is a critical  
3 thing, and it plays very much into our update  
4 recommendations. And so there is a sense that if we have  
5 had this kind of consolidation and we are seeing kind of an  
6 impact on prices and ultimately on costs, isn't it important  
7 for Medicare to try and hold the line, to try and kind of  
8 create some sort of pressure in a sense to keep costs down?  
9 And at the same time, because of Medicare's primary  
10 obligation of access for beneficiaries, we have to very  
11 vigorously monitor that access to beneficiaries.

12 Thank you.

13 DR. GINSBURG: I would just add one comment on the  
14 first thing you mentioned, Bill, about the single-specialty  
15 groups. For many years, when we asked about mergers among  
16 single-specialty groups, you know, market power was leverage  
17 with insurers.

18 In recent years, that has become number two.  
19 Number one reason for mergers has been get to the scale  
20 where it is viable to bring in major services into the  
21 practice, to bring CT scans, to bring MRIs into the  
22 practices.

1           Now, this, you know, relates directly to Medicare  
2 because it is the Medicare pricing structure that has  
3 inadvertently made it so profitable for practices to want to  
4 get big enough to capture the facility charge of these  
5 services. So I think that that has contributed to the rapid  
6 consolidation.

7           DR. CROSSON: I'd like to thank you both and  
8 compliment you both for the presentations. It is so nice to  
9 have presentations that enable us to just get into the  
10 content very quickly.

11           Now, to go back to the premise of the discussion,  
12 it is the notion that some of the ideas that we have been  
13 thinking and writing about in the last couple of years, for  
14 example, bundled payments to physicians and hospitals and  
15 accountable care organizations, were they to proceed in  
16 certain directions could end up with the unintended  
17 consequence of actually creating market power and raising  
18 costs, just the opposite, at least, of one of the purposes  
19 that we had in mind. And I think that is right.

20           The question sort of is, you know, I think for us  
21 if we are going to continue this discussion -- and I think  
22 we should -- is: Where is the most fruitful area to go to

1 look for a solution or a mitigating force, if you will, and  
2 to try to integrate that subsequently in the discussions  
3 that we have about these topics?

4           So one of those is the regulatory environment, and  
5 I think as I have thought about it from the other point of  
6 view, or the point of view Peter was describing earlier,  
7 which is what it feels like if you are trying to actually  
8 create one of these organizations and clinically integrate,  
9 you have not only concerns about FTC regulations, antitrust  
10 regulations, but you also have to worry about civil monetary  
11 penalties for potentially setting up structures which reduce  
12 benefits to the Medicare beneficiaries. You have to worry  
13 about certain anti-kickback regulations and self-referral  
14 regulations and the like.

15           So the sense is, I think, if you take all of those  
16 together, is there a way to get it right in the regulatory  
17 environment, including antitrust regulations, to allow the  
18 good stuff to go through or to be made through rebuttable  
19 presumptions relatively safe enough to go and proceed with a  
20 business plan, and yet construct a regulatory net that  
21 screens out the bad stuff or that makes the risks so great  
22 to pursue anticompetitive behavior that it is no longer

1 likely to proceed? Because if it is not going to happen  
2 that way, then I think either you go to something like John  
3 suggested, which is, you know, baseball arbitration or  
4 something innovative like that, or we move along the line to  
5 more of an all-payer rate regulation, quasi-utility model,  
6 which could be exactly where this ends up.

7           So my question, finally, is: With respect to  
8 that, you know, can we get the regulatory environment right  
9 -- and maybe this is mostly directed to Paul because he  
10 brought this up -- do you think that if one criteria for,  
11 let's say, granting a rebuttable presumption was the payment  
12 methodology that was delivered to the delivery system -- so  
13 prospective payment, full capitation, versus fee-for-service  
14 -- would that create, would that be likely to create enough  
15 protection, if you will, or a safer dynamic to make the  
16 regulatory approach more practical?

17           DR. GINSBURG: What you've said strikes somewhat  
18 of a chord because, you know, a lot of our regulatory  
19 structure, some of the provisions you have outlined, were  
20 created decades ago in a fee-for-service environment. And I  
21 remember how particularly during the era when managed care  
22 was so powerful about how -- you know, just the disconnect

1 between the managed care environment and many of these  
2 regulations, which really had fee-for-service roots. And I  
3 actually don't know the degree to which that disconnect  
4 constrains the managed care environment. But I think that  
5 we are -- I was at a small part in a Mathematica project to  
6 -- you know, which was planning -- it was physician value-  
7 based payments, and a lot of the emphasis was on accountable  
8 care organizations. And we saw very starkly that, you know,  
9 there are many regulations that would get in the way of  
10 moving in this direction.

11           You know, so the key thing would be perhaps  
12 payment would be the best way to define what would qualify  
13 for the safe harbor against regulations that were really  
14 intended for an entirely different payment system. And, you  
15 know, that might be the way to go.

16           DR. GAYNOR: One thing that you point out is that  
17 there are multiple regulators here. There is not just one  
18 single entity, and that is going to require coordination,  
19 particularly with the antitrust enforcers. So as I  
20 mentioned earlier, they did write these guidelines on health  
21 care a number of years ago. I believe they are taking a  
22 look at those things now. But Medicare and the FTC and

1 Antitrust Division of DOJ really do need to coordinate.

2 Now, having said that, with regard to integration  
3 between entities that operate in different markets, like  
4 physicians and hospitals, antitrust has generally tended to  
5 view those things as benign, as efficient, as competition  
6 enhancing. And then the burden of proof is on the plaintiff  
7 to show that these things are anticompetitive. In general,  
8 that has been the tendency in antitrust.

9 So with regard to all these kinds of arrangements,  
10 I would tend to think that the courts would take a favorable  
11 -- again, a neutral to favorable view to start, and that  
12 they would have to be proven to be harmful to competition  
13 otherwise.

14 MR. HACKBARTH: We're down to our last 25 minutes  
15 here, so if people can be as concise as possible, that would  
16 be great.

17 DR. BERENSON: Bill beat me to it in terms of  
18 stating what I think is the importance of this topic for  
19 MedPAC. I think this is the sort of elephant in the room in  
20 health reform that does not get discussed for various  
21 reasons. And I think it is also very specifically relevant  
22 to our work with ACOs. I have had a number of conversation



1 with large-employer purchasers and health plan people who  
2 don't want to support any move towards integrated  
3 organizations because of this market power issue and would  
4 rather deal with siloed individual physicians, perhaps with  
5 some bundled payment, but really not permitting these kinds  
6 of organizations.

7 Paul mentioned, you know, what happens with some  
8 of the better ACOs and they are efficient, so they ask for  
9 more. We have from Health System Change interviews two  
10 organizations who would be absolute prototypes of what we  
11 are talking about, who acknowledged confidentially that they  
12 get 250 percent of Medicare. I mean, we are not talking  
13 about 20 percent more. We are talking about 250 of  
14 Medicare.

15 And so I wouldn't blame a plan or a purchaser for  
16 saying, "I don't want to be promoting that kind of thing,"  
17 which means we need to be talking about policy alternatives,  
18 I think, pretty actively for our ACO idea to go very far.

19 At the meeting a couple of months ago that Elliott  
20 Fischer, Mark McClellan, Atul Gawande, and Don Berwick put  
21 on where they brought together ten communities who were  
22 high-performing communities, there were a couple who

1 actually had engaged the entire community in ways that I  
2 thought would be viewed by the antitrust enforcement  
3 agencies as sort of naked per se violations of antitrust  
4 laws. I asked Elliott, you know, what is the model here?  
5 He pointed to one in Asheville, North Carolina, in fact,  
6 because of the concern, they actually went to the State and  
7 claims they are somehow being supervised by the State.

8           So my question is, one, I think we should know  
9 more about that and any similar models that some of these  
10 high-performing communities have adopted to allay concern  
11 about what they are doing. And I guess I wanted to ask  
12 either Marty or Paul if you know about that.

13           DR. GAYNOR: I don't know about that specifically  
14 with regard to these newer models, but there is something  
15 called state action immunity. If the state, just as you  
16 said, Bob, takes on the role of supervising these entities,  
17 then under certain circumstances -- I'm not a lawyer so I  
18 don't understand this exactly -- they are immune from  
19 federal antitrust action. Mostly these things have -- not  
20 always, but mostly these things have been a sham and a  
21 shield from federal antitrust enforcers. It is easier to go  
22 to the state and persuade the state to put on some kind of

1 very light kind of oversight or enforcement that does not  
2 amount to much and really then shields them from real  
3 scrutiny of the federal enforcers. But not always, and  
4 obviously, I am not speaking to this specific instance.

5 DR. KANE: I'm not going to ask a question because  
6 I don't think it needs to be at this stage, but a couple  
7 things.

8 One is I think that we might as a Commission be  
9 concerned about the hospitals that are the lowest end of  
10 payment in the private sector. Even though they are also  
11 very efficient often on the Medicare standard, they are  
12 often the ones who are not accumulating capital and will not  
13 be able to compete as ACOs because they don't have the  
14 capital to create the infrastructure, and they are being  
15 blown out of the market by the guys who are being paid 250  
16 percent of Medicare.

17 So I think maybe what we want to think about is,  
18 you know, how financially viable are these lower-end, you  
19 know, payment-to-cost ratios of 1.01 instead of 2.50, and  
20 think about whether they are really going to be able to join  
21 the ACO gold rush when the time finally comes.

22 The other thing, I think, I have just been through

1 this conversation because I was on the special commission in  
2 Massachusetts on payment reform. And just to let you know  
3 what we concluded -- and it was, you know, physicians,  
4 hospitals, state people. There is a group of people  
5 representing the various providers and insurers in the  
6 commission. And, you know, granted, we are only making a  
7 recommendation, but we came out recommending that all of our  
8 providers should form ACOs, should be paid global payments  
9 in varying degrees with certain kinds of risks depending on  
10 what they are ready for, and then that there should be a  
11 board overseeing it and they should be all-payer regulated,  
12 you know, let them negotiate within limits and then have a  
13 board set targets for how fast those limits can go up or  
14 down.

15 Now, this may never pass. I mean, everybody is  
16 coming out of the woodwork saying it is sophomoric or it is  
17 impossible or, you know, it is the government intervening in  
18 the private sector again. But the politics are obviously  
19 not, you know, consensus around these things.

20 But I think we really do need to start building  
21 public awareness around the possibility that, you know,  
22 markets are not working and the winners and the losers

1 aren't necessarily the ones that you want to have win or  
2 lose. You know, it is really related to some brands or some  
3 often devious market behavior that has happened over the  
4 last 15 years. And I think, you know, there is a real need  
5 to educate the public on this.

6           So I really enjoyed listening to your comments and  
7 agree with most of your conclusions, and I actually think I  
8 have kind of given up on markets. But I am hoping there is  
9 some vestige left of, you know, maybe competitive  
10 negotiation that can happen. But I think we really have to  
11 get realistic about the limitations of that and the  
12 possibility that we will end up only with the high-cost  
13 systems and that we will lose the lower-cost systems if this  
14 plays out in a continuing competitive, non-regulated way.

15           DR. GAYNOR: I'm not as pessimistic about markets,  
16 I suppose, but I can't help myself. I am an economist. But  
17 let me suggest something actually with regard to regulatory  
18 oversight that might be worth thinking about, although it  
19 is, again, probably well beyond the purview of MedPAC  
20 itself.

21           Something intermediate between a market and an  
22 all-payer regulator is a system that is used in the

1 Netherlands for health insurance markets, where there is the  
2 Netherlands Health Care Authority that oversees the health  
3 insurance markets -- and health care, for that matter, too.  
4 And one of the authorities they have is to intervene if  
5 there is a large health insurance fund -- this is a very,  
6 very large market share, and they dominate the market -- is  
7 to start to doing all kinds of things, asking for  
8 information, taking a look at what they are doing, they can  
9 set price ceilings, they can effectively regulate their  
10 prices.

11 But they do not regulate the entire market ex  
12 ante, so they have this sort of capacity to step in, and  
13 they work in concert with the competition authority, the  
14 antitrust enforcement authority. The difference is that  
15 this regulatory authority can act ex ante. They can be more  
16 active; whereas, antitrust enforcers are reactive. Just the  
17 nature of the beast.

18 So there may be intermediate kinds of policies  
19 that one could think of if one is very concerned that things  
20 are evolving in such a way that we are creating these very  
21 large entities that just are not going to compete with one  
22 another, maybe for good reasons, maybe because they do have

1 some benefits.

2 DR. MILSTEIN: I think probably most of us -- it  
3 was actually great to see that option listed, that is,  
4 essentially just simply await the providers feeling sated.  
5 But I think the \$99,000 CABG probably dimmed our enthusiasm  
6 for that option.

7 [Laughter.]

8 DR. MILSTEIN: Also, I want to say that I think  
9 this idea of building -- you know, what about capitation as  
10 a solution, I personally, you know, like the direction but  
11 would be wary about it just because we know in California  
12 and in the Boston market, where Nancy comes from, that you  
13 can use provider power just to command, you know, whatever  
14 is the capitation equivalent of a \$99,000 CABG prices. So  
15 it is directionally correct, but it still does not -- you  
16 know, it simply become a different means by which monopoly  
17 power can be exerted.

18 And I also think it is fair to say that if this  
19 evolution continues -- and there does not seem to be  
20 anything, you know, in its way -- I think that it is fair to  
21 say that Medicare beneficiaries are likely to face declining  
22 access to providers. Why should they deal with Medicare

1 patients if they can get much better prices on the  
2 commercial side?

3           Then you can also sort of see what has happened  
4 based on prior experience at MedPAC. Providers then come  
5 back to MedPAC and just say, "Look how much money we are  
6 losing on Medicare. You have got to do something about it."  
7 So you can sort of see the direction of the dynamics, and  
8 they are not going to be favorable either for valuing in the  
9 U.S. health care system or in terms of Medicare  
10 sustainability. Even though it is happening outside of  
11 Medicare, you know, the likely impacts on Medicare are  
12 extremely unfavorable.

13           One of the things that this Commission has  
14 frequently raised is whether or not there might be some way  
15 that by better harmonizing Medicare as a purchaser with the  
16 private sector, that, you know, short of an all-payer  
17 commission or a fully regulated system, a better harmonized  
18 approach between Medicare and the private sector might be  
19 able to begin to reprogram providers away from simply  
20 boosting prices through consolidation but, rather, pursuing  
21 more value, that is, you know, higher levels of health per  
22 dollars spent, both for Medicare and the private sector,



1 which I think is a happy vision for the public interest.

2           And so what are your thoughts? I mean, here at  
3 this Commission we keep giving lip service to this notion of  
4 we need to better harmonize what we do with the private  
5 sector. But we have yet to, you know, really implement this  
6 in any substantial way within that category, which is  
7 obviously midway between regulation and market competition,  
8 referring specifically to better harmonizing Medicare and  
9 the private sector. What are your views as to what some of  
10 the options might be that we might begin to reflect on here?

11           DR. GINSBURG: Arnie, I see harmonizing and market  
12 power as very separate things. Think about physician  
13 payments. You know, the private sector and Medicare are  
14 completely harmonized -- you know, not because they decided  
15 to harmonize, but because private insurers on their own saw  
16 merit in using the Medicare structure. And we still have  
17 250 percent of Medicare for the group that Bob mentioned in  
18 California.

19           So, in a sense, I think actually harmonization  
20 actually I think would facilitate regulatory approaches,  
21 when I think of it, because, you know, in a sense it is --  
22 you know, it would be very easy to have an all-payer system

1 for physicians. They just say, you know, this is the rate,  
2 I mean, this is the conversion factor. And, in fact, you  
3 know, as a phase-in or even permanent thing, they could  
4 grandfather in the fact that, oh, you know, Medicaid pays  
5 less than Medicare. But, in a sense, you know, to me the  
6 merit of harmonization is to get the entire delivery system  
7 onto the right incentives. But I think that to go the next  
8 step, it would facilitate the regulation or maybe even it  
9 would facilitate even market forces if there was, again, a  
10 common understood payment metric, it might be easier to even  
11 design kind of demand-side products that had meaning. You  
12 know, because one of the things that has prevented demand-  
13 side products is that you want to have meaningful prices.  
14 So for hospital care, you don't want to have, you know,  
15 prices of individual services. You want prices per episode.  
16 So if you are going the accountable care organization or  
17 quasi-capitated route, it would just be the price for a  
18 year. So, you know, in a sense, it might actually promote  
19 both opportunities for regulation and opportunities for the  
20 market if you had this harmonization.

21           And one thing I found in a research project a long  
22 time ago is that private insurers don't see themselves

1 innovating in the payment area because they lack the  
2 credibility and they lack the clout of Medicare. So I think  
3 their perspective is, yes, you know, as Medicare develops  
4 systems that we can use, we would like to use the Medicare  
5 system. And I think bringing them into the process would  
6 probably be very productive.

7 DR. GAYNOR: Well, one other area for  
8 harmonization -- I don't know how much this is done -- is  
9 working with the federal antitrust enforcement agencies. So  
10 I don't know the extent CMS or MedPAC works with those folks  
11 or consults directly with those folks. Does Medicare have  
12 the ability to act as a plaintiff in an antitrust suit? I  
13 don't know if that is the case or not. But there  
14 undoubtedly have been some mergers of hospitals, of health  
15 plans that are deleterious to Medicare beneficiaries. I  
16 don't know if legally Medicare has standing in such a case,  
17 but I think it's certainly well worth trying to work very  
18 closely with the antitrust enforces going forward.

19 MR. HACKBARTH: We are down to our last ten  
20 minutes or so.

21 MR. GEORGE MILLER: Is that a hint to be brief?

22 MR. HACKBARTH: Actually, let me make it stronger

1 than a hint.

2 MR. GEORGE MILLER: I will try to be brief. Let  
3 me mention a couple things.

4 I think Peter had it exactly correct as far as  
5 hospitals employing physicians. In fact, recently most  
6 physicians that I have talked with, the issue was a  
7 lifestyle change. And, in fact, in the medical schools of  
8 about 50 percent of women, when I have talked with them,  
9 they clearly tell me they have -- they want to have  
10 families. They will not work the hours as their  
11 predecessors worked. They will not take call. And so there  
12 is a dynamic here of a lifestyle change with newer  
13 physicians. They want an employment platform that was  
14 talked about.

15 I also think Bill was correct in talking about  
16 ACOs and bundled payments, specifically around the growth of  
17 single-specialty groups. In two communities that I was in  
18 recently, the gastroenterologist and the cardiologist had  
19 strong market clout, that they went to providers to demand  
20 increased fees, and they built facilities. They got both  
21 the physician component and the facility component of that  
22 fee and, quite frankly, in both of those instances took

1 volume away from the hospital. That is not the issue here,  
2 but that was a market dynamic of them.

3           When I first read the chapter without hearing this  
4 presentation -- you all did an excellent job to kind of  
5 raise some questions -- I was a little concerned about the  
6 hypothesis that integration would lead to higher prices  
7 where in the paper there were two examples -- in the  
8 chapter, two examples, but there are other examples where it  
9 doesn't. I think both of you alluded to that the literature  
10 is mixed on that point.

11           So that led me to agree with my colleague Nancy  
12 about that there are going to be winners and losers, and my  
13 concern would be rural communities who in some cases provide  
14 excellent quality care at low prices, and where they would  
15 fall in this mix I would be concerned from a global  
16 standpoint. I would certainly like to hear your thoughts on  
17 that.

18           And then, finally, if we are pushing toward ACOs  
19 and bundled payments, it seemed that this chapter could be  
20 misconstrued, at least in my mind, and counterintuitive to  
21 the fact that we have got this issue with consolidation  
22 versus trying to push toward the ACOs and bundled payment to

1 -- you know, where consolidation made some sense. In my  
2 mind, there is a little bit of conflict from what I have  
3 read in the chapter, although, quite frankly, both of you  
4 helped clear some of that up.

5 DR. CHERNEW: Thank you both very much. I have a  
6 few quick points.

7 The first one is I think this is consistent with  
8 evidence that at least we are finding, and some others, that  
9 there is not a good correlation between the geographic  
10 variation literature in Medicare and the geographic  
11 variation in the commercial sector, in part because the  
12 prices could be very different. That is just a statement.

13 The second question is: There's models of  
14 competition that can generate close to perfect competition  
15 with very few providers, as few as two in some models, and  
16 that empirically I can find some cites that have three or  
17 four you get close to perfect competition. And there are  
18 other models that suggest even with a lot of providers, you  
19 cannot get down to perfect competition because people demand  
20 the broad network or things like that.

21 I think I take your message that the sort of  
22 standard model of competition is kind of somewhat

1 continuous, and as you consolidate from Los Angeles versus  
2 San Luis Obispo, you do see this sort of smooth aspect of  
3 consolidation.

4           So despite all the going around the table, you  
5 characterized the empirical literature as consolidation in  
6 the provider market leads to market power, more so when you  
7 are getting smaller levels.

8           DR. GINSBURG: For hospitals.

9           DR. CHERNEW: For hospitals, and presumably for  
10 integrated hospital systems. So if we were talking about  
11 ACOs and asked the question, How many would you need in an  
12 area to have competition?, the answer would be if you had  
13 three, it wouldn't necessarily be very competitive.

14           DR. GAYNOR: I don't know of any evidence on that.  
15 For hospitals, at least in isolated small towns, rural  
16 areas, you can get to competition with three or four. At  
17 least there is some evidence on that. Clearly, there is --  
18 but even in a crowded market, consolidation can increase  
19 prices significantly.

20           DR. CHERNEW: My last question, and this is --

21           DR. GINSBURG: Michael, before you -- on that one,  
22 sometimes -- you know, defining the market is really hard,

1 but I think a lot of antitrust energy goes into that. And  
2 one of the markets that we have regularly gone to,  
3 Indianapolis, had four hospitals. And unlike other markets,  
4 each hospital had its own part of town, and it seemed like a  
5 monopoly market for many years -- until eventually they all  
6 started competing for the same growing suburban areas and it  
7 became more competitive.

8 DR. CHERNEW: My last question was on something  
9 that I think was asked, which was -- first of all, I  
10 strongly support expanding this into the insurance sector.  
11 I think that is crucial. I think from your presentation I  
12 would take it that simply having more competition in the  
13 insurance market won't lower premiums to where we would want  
14 them to go, because the insurers are facing market power in  
15 the provider sector. So if you can't get the biggest input  
16 price down, if there is a lot of consolidation, which you  
17 convinced me there was, there is a limit as to how much  
18 insurance competition can deal with that. I think that is  
19 right. And if we had monopoly insurers, there would even be  
20 a worse situation, because then they would just leverage the  
21 input prices and charge more.

22 I think that is what I would take from your



1 presentation.

2 DR. GAYNOR: We weren't asked specifically to  
3 address insurance, and I didn't. But two things. Say you  
4 have a monopoly provider market, if you have a monopoly  
5 insurer, you are going to have higher premiums than if you  
6 have many insurers, period, end of story. So there is not,  
7 unfortunately, a lot of good empirical research evidence on  
8 competition in health insurance markets, but there are a few  
9 recent papers by some folks that do seem to show that  
10 premiums are higher in more concentrated health insurance  
11 markets, not controlling really for what's happening in the  
12 provider markets.

13 DR. CHERNEW: If we think the fundamental problem  
14 is in the provider sector, it doesn't sound like insurance  
15 market competition could necessarily solve the provider  
16 sector problems. It would be a limit as to what it would  
17 be.

18 DR. GAYNOR: Sure, of course.

19 DR. CHERNEW: Let me just -- the last point I  
20 would just add is there used to be a lot of emphasis on  
21 integration between the insurers and the providers and  
22 having competition sort of at that level, none of which is

1 discussed, but I think it would be a useful thing to at  
2 least --

3 DR. GINSBURG: I would say I think there is very,  
4 very little integration between insurers and providers, and  
5 that's because -- and there used to be some. Of course, we  
6 have Kaiser Permanente, you know, a very successful example  
7 if integration. But, you know, with the backlash against  
8 managed care, it seemed as though the health insurance from  
9 those integrated organizations became less popular, because  
10 people viewed it as, oh, I don't want to be constrained to  
11 that delivery system. So I actually think there is a lot of  
12 potential there, but it's almost as if it has gone away.

13 The funny debate about cooperatives in health care  
14 reform, and some of the examples pointed to -- the ones I  
15 recognized were all integrated, and they were organizations,  
16 you know, not doing well in today's market just because they  
17 were integrated. And there were no examples that I saw of a  
18 cooperative that was just a health insurer.

19 MR. HACKBARTH: Okay, right on time, almost to the  
20 second. How about that? Good Chairman, right? Thank you,  
21 Paul and Mary, and Jeff and Anne as well. Great job, very  
22 thought-provoking topic, and one I am sure we will be

1 revisiting.

2           We will now have our public comment period, and  
3 for those of you who are new to this, the ground rules are:  
4 Please introduce yourself and your organization first; limit  
5 your comments to no more than two minutes; and when the red  
6 light comes back on here on my microphone, that will signify  
7 the end of your two minutes.

8           Let me also remind people that you can now go to  
9 the medpac.gov website, and you can comment through the  
10 website on items on our agenda. And it opens, Jim, say  
11 again?

12           DR. MATHEWS: It opened when we posted the meeting  
13 agenda, and we will keep it open for one more week.

14           MR. HACKBARTH: Okay.

15           MS. SHANNON-CARLSON: Good afternoon. My name is  
16 Eileen Shannon-Carlson. I am with the American Nurses  
17 Association, and I am a registered nurse.

18           A recurring theme from MedPAC is the serious  
19 shortage of health care providers to serve the Medicare  
20 population. Several Commissioners -- many physicians --  
21 have noted the growing contributions of non-physician  
22 Medicare providers. There are literally thousands of

1 Medicare providers who are not physicians, including nurse  
2 practitioners, clinical nurse specialists, psychologists,  
3 therapists, and many, many more categories.

4           There is virtually a kaleidoscope of care provided  
5 today, and often non-physician providers fill the gaps when  
6 physicians are either unavailable or unwilling to care for  
7 Medicare patients. There needs to be a fundamental shift in  
8 focus to consistently and thoroughly look at the  
9 contributions of non-physician health care providers to  
10 reflect the realities of health care delivery today, better  
11 serve Medicare patients, and ensure the accuracy of the  
12 data.

13           For example, any discussion on mental health is  
14 extremely incomplete without taking into account the care  
15 provided by psychologists and other non-physician mental  
16 health care providers. And discussions of the  
17 anticompetitive effects of health care integration are also  
18 incomplete without an examination of the effects on non-  
19 physician providers.

20           Thank you.

21           MR. COHEN: My name is Rob Cohen, and I'm from  
22 Excel Health, and I also have a history with the Maryland

1 system, which Dr. Ginsburg and many of you discussed. I  
2 have a comment which leads to a question.

3 My comment is that with hospitals I believe  
4 additional revenue leads to additional costs and that  
5 hospitals charging many hundreds of percent of costs, the  
6 national average being over 300 percent, leads to cost  
7 shifting, increased revenue, and increased costs.

8 Therefore, my question is: As a potential  
9 intermediate step towards Maryland-style all-pay rate  
10 setting to improve market failure, what about having a  
11 maximum level of charges or a maximum payment obligation,  
12 such as 150 percent of Medicare or some other number well  
13 below today's charges, to prevent excessive leverage and  
14 cost shifting, which would lead to lower cost? You had  
15 asked about other potential policy options, and I wonder if  
16 this is one of those options which offers incremental  
17 change.

18 Thank you.

19 MS. PESCHIN: Hi. My name is Sue Peschin, and I'm  
20 Vice President of Public Policy for the Alzheimer's  
21 Foundation of America. I want to thank the Commission for  
22 examining care issues for Medicare beneficiaries with mental

1 illness and inpatient psychiatric facilities, and in  
2 particular for all your dementia-related comments in the  
3 question-and-answer section.

4           As many as 4.5 million Americans have dementia,  
5 and that number will multiply in the coming decades as our  
6 population ages. According to several studies, dementia  
7 alone or with co-existing depression are in the top list of  
8 conditions of those 65 and older admitted to IPFs. However,  
9 there is limited data on the reasons for why persons with  
10 dementia are being admitted to IPFs. It is difficult to  
11 cite a precise cause in a person who may have multiple  
12 problems such as delirium or adverse drug reactions. We  
13 encourage caution for making conclusions when the data are  
14 so unclear.

15           IPF is an appropriate setting for the individual  
16 with dementia when he or she is severely behaviorally  
17 disturbed and poses a threat to self or others and when  
18 inpatient care would be the least restrictive environment.  
19 However, there are two issues AFA would ask the Commission  
20 to consider in its review of IPF care.

21           First, since IPF is a common detour for those with  
22 dementia, families often ask how they can assess the quality

1 of the geriatric psychiatric unit and ensure their loved one  
2 will be seen by an actual psychiatrist with geriatric  
3 expertise. AFA supports the creation of national guidelines  
4 for geriatric psychiatry units, including a geriatric  
5 psychiatrist on staff to serve as the clinical director and  
6 oversee quality and education in the unit. We recognize the  
7 serious shortages in the availability of geriatric  
8 specialists and support a national workforce strategy to  
9 remedy this deficit.

10           Second, despite the fact that approximately half  
11 of residents in assisted living and nearly two-thirds of  
12 residents in nursing homes have some degree of cognitive  
13 impairment, there are no national requirements for pre-  
14 employment or ongoing training in dementia care. Training  
15 would go a long way toward avoiding unnecessary psychiatric  
16 hospitalizations.

17           Thank you for your consideration of our views.

18           MR. HACKBARTH: Okay, we're adjourned. Thank you.

19           [Whereupon, at 12:05 p.m., the meeting was  
20 adjourned.]

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