

Option 44**Require Drug and Device Manufacturers to Disclose Their Relationships with Physicians Who Participate in Medicare**

Under this option, pharmaceutical and device manufacturers would be required each year to disclose to the Centers for Medicare and Medicaid Services (CMS) all relationships with physicians who participated in the Medicare program. All contacts would be subject to disclosure, and CMS would publish the information on its Web site.¹ Contacts would include support for continuing medical education and relationships in which physicians were paid to lecture about specific drugs or devices. A manufacturer that failed to disclose a contact or provided an incomplete report would be fined \$10,000 per violation.

At this time, the Congressional Budget Office cannot estimate how this option might affect spending for Medicare but believes that, over time, disclosure has the potential to reduce spending. For example, hospitals and health plans could use the data collected under this option to ensure that relationships between physicians and manufacturers did not influence decisions about which drugs became part of a formulary (a list of preferred drugs) or were recommended in practice guidelines. Public reporting and disclosure of industry–physician relationships might also encourage physicians to monitor and modify their own behavior. The reporting system that this option would implement and the data that would be collected as a result could become a building block for further regulations that might reduce future costs below the level that they otherwise would attain.

Manufacturers of prescription drugs and medical devices interact with physicians in many ways—for example, during sales visits, in supporting continuing medical education, and in establishing formal relationships in which physicians act as consultants to manufacturers. One

recent study estimated that in 2003 and 2004, about 94 percent of practicing physicians had some sort of relationship with a drug company.²

As the U.S. health care system is now structured, some of those relationships are probably unavoidable, and some of the contacts may prove beneficial to patients. For example, manufacturers' sales representatives visit physicians to market their products and often provide free samples. Doctors, in turn, may learn about new pharmaceuticals during those visits and sometimes use the samples to assist patients who have trouble affording a prescription or who need to start on a medicine as quickly as possible. With respect to medical devices, manufacturers may be the best sources of training for physicians in the use of a new product.

Research indicates, however, that relationships between physicians and manufacturers may also have unintended and unfortunate effects on health care utilization and spending. One study found that physicians' interactions with drug companies or their representatives were associated with rapid prescribing of newer, more expensive drugs and more limited prescribing of less expensive generic medicines.³ Another study found that physicians who had had contacts with a drug company were more likely than other physicians to request that the company's drug be added to a hospital's formulary, even when the drug offered no therapeutic advantage over pharmaceuticals that were already on the list.⁴

An argument in support of this option is that Medicare could use the information it would provide to better understand and evaluate relationships between physicians and device and drug manufacturers. When choosing a

1. The Medicare Payment Advisory Commission, in its June 2008 publication *Report to the Congress: Reforming the Delivery System*, examined some of the issues surrounding physicians' relationships with drug and device manufacturers, including consideration of a federal reporting system. In November 2008, the commission recommended that the Congress direct drug and device manufacturers to disclose their relationships with physicians and hospitals, as well as other stakeholders, such as patient organizations and pharmacists. The commission also recommended that the Congress direct the Secretary of Health and Human Services to post the information on a public Web site.

2. E.G. Campbell and others, "A National Survey of Physician–Industry Relationships," *New England Journal of Medicine*, vol. 356, no. 17 (April 26, 2007), pp. 1742–1750.

3. J. Lexchin, "Interactions Between Physicians and the Pharmaceutical Industry: What Does the Literature Say?" *Canadian Medical Association Journal*, vol. 149, no. 10 (November 15, 1993), pp. 1401–1407.

4. A. Wazana, "Physicians and the Pharmaceutical Industry: Is a Gift Ever Just a Gift?" *Journal of the American Medical Association*, vol. 283, no. 3 (January 19, 2000), pp. 373–380.

physician, Medicare beneficiaries could consider a doctor's relationships with the pharmaceutical and medical-device industries and could select a physician, at least in part, on the basis of those relationships. CMS could use the information, in combination with data from claims, to improve its understanding of physicians' practice patterns and trends in the utilization of drugs and devices.

An argument against the option is that it could be administratively burdensome. Although manufacturers might

have ready access to some of the information that would be required—such as consulting contracts—they might find other data more difficult to collect. In addition, CMS would need to set up a process for gathering and reviewing the disclosures and then publishing them in a way that would be easily available to and understood by the public.

«CBO»