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MAKING THE BEST OF MANAGED CARE**State ombudsman, report card and profile programs aim to aid those frustrated by HMOs.**

It was the worst medical news. A young Vermont woman, "Ellen," had breast cancer, and her managed care company refused to cover treatment by a recommended specialist because he was outside its network.

Another HMO horror story? Not quite. Within three months, Ellen took her case to a new state office that was able to negotiate full treatment for her. The Montpelier office of the health care ombudsman talked repeatedly with her insurer and provided the medical information they needed. The ombudsman also worked with her oncologist; as a result the HMO agreed to cover treatment. Then Ellen received a notice that she was going to be dropped from the plan. The ombudsman office again negotiated with her HMO. This time they agreed to continue her health coverage, but under a different group policy.

Not all cases have such clear results, but in a growing number of states, laws to protect managed care patients appear to be working--with less disagreement, less litigation and, some say, healthier enrollees.

The number of Americans enrolled in managed care surpassed 180 million last year. And between 1995 and the end of 2000, more than 45 states passed their own laws regulating that care. These laws still vary from state to state--covering access to care, quality, the right to information and the avenue to complain. The statutes themselves can be complex--often filling 40 pages, and covering many topics.

Within the HMO debate, a recent trend is emerging and is especially reflected in more recent laws. It can be summarized as "making it work." This approach may sound obvious, but it also remains contentious.

The kinds of legislation being designed to make HMOs work better include:

- 1 Consumer report cards--Widely published, easy-to-read reports that compare all the major competing managed care health companies for quality, finances and services.
- 1 Doctor profiles--Easy to get public records with details about doctors so consumers can spot strengths such as training and credentials as well as cautions such as medical board sanctions or malpractice judgments.
- 1 Ombudsman or consumer assistance offices--State-funded but independent offices that act on behalf of a patient who is unable to get needed medical care.

A common thread among these mandatory, state-created policies is that they no longer seek to discredit or block managed care as a predominant way Americans get health care. Instead, each provides a practical tool to assist or reassure patients, while allowing the health insurers (both nonprofit and for-profit companies) to continue in business and even grow or thrive.

THE REPORT CARD MOVEMENT

The idea of report cards is hardly new. State governments, the media and private groups have issued high-visibility reports for decades. But managed care report cards do bring something new--an easy-to-read comparison of health rights and health services.

About 25 states produce consumer-friendly report cards; 20 of these are mandated by law or regulation. They track such things as delivery of care, prevention efforts to maintain health, recovery from illness, living with chronic illness, financial claims handling, handling of complaints, costs and charges of the health care plan, and coverage of prescription medications, equipment and supplies.

Maryland's Health Care Commission publishes "Comparing the Quality of Maryland HMOs." The hard-hitting report has gone out to half a million citizens in the past four years. Aimed at helping families pick an HMO or switch to a different one, it gives consumers a tool for comparing them. At a glance, a user can see that screening for high cholesterol, for example, is done on high-risk patients just 48 percent of the time by one company, 66 percent by another and 85 percent by a third. The report lists details for 15 private companies in both the 1999 and 2000 editions, reflecting both provider compliance and some stability in the private market.

"The 2000 report contains new information that consumers said they want, including treatment of diabetes, depression and high cholesterol," says Commissioner Donald Wilson, chairman of the Maryland Health Care Commission. "With this new information, we hope Marylanders will put quality at the top of their list of reasons for choosing an HMO."

Not everyone is a fan of these report cards, however. An analysis published in the September 2000 Health Affairs suggests that state report cards have little effect on people's choice of plans. "Much is being invested in measuring and reporting health plan performance to consumers, and there is growing pressure to show some payoff," writes Professor Judith Hibbard of the University of Oregon. "The results of our study suggest that the current approach of emphasizing consumer choice among plans is not the most effective." She notes that if a report emphasizes negatives such as potential health risks and limited services it attracts more attention and increases the likelihood that consumers will choose higher quality plans. But, she says, this way of comparing plans is not popular with HMOs and employers.

PROVIDER PROFILES

"Is my doctor qualified?" That question resonates with more urgency when the local family doc is replaced by an unfamiliar employee working for a multistate HMO. But doctors have balked at attempts to make personal information available. Traditionally, physicians value privacy, especially for themselves. That's why the first legislative proposal for a public physician profile database, filed in Massachusetts in 1993, was initially met with a storm of opposition from the influential Boston-area medical community. After several years of negotiation and redrafting, the Massachusetts law finally was signed in 1996. One compromise? The Massachusetts program is run by the state's medical board of registration rather than an executive department.

The effort sheds some light on a very difficult task, says Senator Marc Pacheco, the chief sponsor of the legislation. "It allows consumers to make an educated choice about who provides their care. In the uncertain area of health care, the responsibility of choosing a doctor can be very burdensome."

Senator Pacheco says the profiles have been extremely useful. "Total hits for the Web site are up to 2.7 million, averaging 5,000 hits a day," he says.

As of April 2001 the Massachusetts registry covered 29,193 physicians. Facts, available 24 hours a day via the Internet, include whether the doctor currently accepts new patients, accepts Medicaid, provides language translation, as well as insurance plan and hospital affiliations, degrees, awards and professional publications. It also lists any malpractice, disciplinary or criminal convictions. The law allows providers to review their profiles before publication and to make corrections.

Twelve states, from Arizona to Virginia, currently have some type of state-coordinated doctor profiles. In another 10, the state medical boards oversee profiles without a state law. The explosion of easy Web access to information has made the profile reports even more public than original sponsors had hoped. Like report cards, there still are disagreements about how much data to include. Should routine activities be included, for example, or only proven medical errors or malpractice judgments? Should allied professions like nurses, podiatrists or optometrists be profiled as well?

FROM OMBUDSMAN TO CONSUMER ASSISTANCE

"According to my doctor, I needed a hip operation but my health plan said I should take medication instead," complained Helen Bretman of Montpelier. This kind of constituent story led Senator Cheryl Rivers and other lawmakers to propose a state-funded solution, the Office of the Health Care Ombudsman. "Ordinary Vermonters are often no match for HMOs. They can't cut through the hopeless morass of red tape designed by HMOs and insurance companies to avoid providing care or paying claims," Rivers says. "It's important to fund an independent advocate who can help ensure more citizens will receive the medical care they need."

The Vermont office helped 2,100 people last year, operating on a \$350,000 budget. "We are independent of state government, which is a key," says Ombudsman Donna Sutton Fay. "Our staff can appear at appeals hearings, we interpret HMO contracts or just assist in gathering medical information--whatever is necessary. Sometimes we call insurance companies before there is a denial, then we can call back the doctor to make sure it will work out. We've lost a few cases, but an overwhelmingly large number are successfully resolved."

State employees with government health benefits have had access to ombudsman

services for a number of years. Medicaid programs in California, Michigan, Minnesota, Oregon, Tennessee, Vermont and Wisconsin also have ombudsman services for citizens enrolled in managed care.

In the past four years, the idea has expanded to private market health insurance, especially as part of managed care consumer initiatives.

Florida established a ombudsman committee in 1996, later run in combination with an independent appeals process available to managed care enrollees. Pamela Anne Thomas, chief of Florida's Bureau of Managed Health Care, reports that the ombudsman committees are fully functional in three parts of the state, but that some regions still do not have the service. She calls the Florida approach "the local advantage" because the committees are in or near the communities they serve. But because the program counts on volunteer efforts, with three members appointed by the state and other slots designated for physicians, nurses, attorneys, social workers and consumers, it has been difficult to get them staffed.

Illinois' office of consumer health insurance started up in January 2000--the result of a law sponsored by Senator Laura Kent Donahue. "These days, it is critical that residents have a better understanding of health care. This new office encourages them to take advantage of coverage they are entitled to. It is also a source for us when constituents have health problems," she explains.

In its first year of operation, the office responded to 10,750 phone inquiries. Much of the work was explaining hard-to-understand terms like "pre-existing condition," and pointing out benefits already protected by state and federal laws. The Chicago office handles questions in English, Spanish and Polish.

Altogether, about 14 states are experimenting with managed care consumer assistance or ombudsman programs.

And the managed care industry closely tracks legislation affecting consumer rights and relations. "Anything that provides consumers a guide to health and gives them more information is a good thing," says Susan Pisano, vice president for communications, American Association of Health Plans. "We know that those who know how to get services are happier users. It is inevitable that there will be some problems, and people should know what resources are available and how to use them."

A TENTATIVE OPTIMISM

Not everyone agrees that consumer protection programs will save the managed care system, or even if it should be saved. Analysts fret that rising premiums, averaging about 10.5 percent in 2001, but as high as 20 percent for small employers, mean the attention in managed care is shifting to cost controls rather than quality and service. But in states that have consumer law programs in place, there is an optimism and a tentative but growing sense of partnership.

"Legislators have become very interested in public funding to help consumers navigate the increasing complex health system," says Stan Dorn, director of California's Health Consumer Alliance. "As we speak, lawmakers are debating bills that will increase the state's role and help make managed care a better system."

FIND IT ON THE WEB

Maryland HMOs report card: <http://www.mhcc.state.md.us/hmo/consumerguide2000.pdf>

Massachusetts physician profiles: <http://www.docboard.org/ma/df/masearch.htm>

North Carolina report card: <http://www.ncdoi.com>

TOOLS TO HELP PATIENTS USE HMOS

OMBUDSMAN

California
Colorado
Connecticut
Florida
Georgia
Kentucky
Illinois
Maine
Massachusetts
Minnesota
New Jersey
Rhode Island
Texas
Utah
Virginia
Vermont

REPORT CARDS

California
Colorado
Connecticut
Florida
Iowa
Kansas
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Missouri
New Jersey
New Mexico
New York
Oklahoma
Oregon
Rhode Island
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin

PROVIDER PROFILES

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Arizona
California
Connecticut[*]

Florida[*]
Idaho
Iowa
Kansas
Maine
Maryland[*]
Massachusetts[*]
Minnesota
New York[*]
North Carolina
Ohio
Oklahoma
Oregon
Rhode Island[*]
Tennessee[*]
Texas
Vermont
Virginia

Regulatory requirements

[*] Available on the Web

PHOTO (BLACK & WHITE): Senator Marc Pacheco Massachusetts

PHOTO (BLACK & WHITE): Senator Cheryl Rivers Vermont

PHOTO (BLACK & WHITE): Senator Laura Kent Donahue Illinois

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By Richard Cauchi

Richard Cauchi covers health insurance and managed care issues for NCSL.

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