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Baucus bill fine print a health hazard

A provision in the bill could even be deadly for Medicare's elderly.

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In the influential Senate Finance Committee's health care bill there is a dangerous provision that could deny crucial health treatments for Medicare patients.

This is the much-publicized and debated Baucus bill, named for Senate Finance Committee Chairman Max Baucus. In its news section, the Wall Street Journal reported Sept. 17 that this bill "breaks a logjam and is likely to form the core of a bill in the full Senate."

During the continuous, extensive coverage of this proposed legislation, there has been only very limited mention – and none I've seen in the mainstream press – of a section that penalizes doctors for Medicare patients who, for at least five years (from 2015-20), authorize total treatments that wind up in the top 10 percent of national annual Medicare costs per patient.

The 1 in 10 Medicare doctors who spend beyond this limit will themselves lose 5 percent of their own total Medicare reimbursements. Considering the already low rates Medicare doctors get – and the president pledges they will get lower – this could be a heavy penalty.

As Burke Balch, director of the National Right to Life's Center for Medical Ethics, says: "This (part of the Baucus bill) means that all doctors treating older people will constantly be driven to try to order the least-expensive tests and treatments for fear they will be caught in that top 10 percent. Note that this feature operates independently of any considerations of quality, efficiency or waste. If you authorize enough treatment for your patients, however necessary and appropriate it may be, you are in danger of being one of the 1 in 10 doctors who will be penalized each year."

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There is, however, in the Baucus bill what seems to be an exception to this iron mandate for reducing medical care costs that indeed is not related to quality of care, while aiming solely at reducing the national debt. There is a section (page 80, the Chairman's Mark) that gives Kathleen Sebelius, secretary of Health and Human Services, permission to adjust these strictures for "those physicians who tend to serve less-healthy individuals who may require more intensive interventions."

But what is submerged in here is the cold fact that even if a Medicare doctor does apply this permission in treating certain patients, as he considers necessary, the pressures will continue – with regard to his entire cumulative roster of other Medicare patients – to keep very much in mind that he or she may still be in peril of winding up at the end of a year in the punishable top 10 percent of annual Medicare costs per patient.

To bring Balch back into the conversation concerning the actual effects of the 10 percent health penalty on real-life patients, as well as doctors, he points out that this penalty for Medicare doctors "creates a moving target."

"By definition," Balch said, "there will always be top 10 percent, no matter how far down the total amount of money spent on Medicare is driven." Say that 2015, the top 10 percent is anything over $10,000 per patient. In 2016, most doctors will scramble to hold down the treatments they authorize to avoid breaking that limit."

But the real possibility, as a result, is that the total annual amount of that limit will drop. So next year, doctors will try to avoid being in the penalty box for anything they authorize over $9,500. Burke Balch adds:

"As the process repeats, the next year might be anything over $9,000; the year after that, anything over $8,000, and so on. It's a game of musical chairs, in which there is always one chair less than the number of players. No matter how fast the contestants run, someone will always be the loser when the music stops."

But Medicare doctors will not be the only losers. As the doctors struggle to keep abreast of the continually falling limit of the money they can authorize for their contingent of patients, consider what those patients will lose in the quality of their treatment.

The bluntest assessment of this approach to health care "reform" is by National Right to Life Executive Director David N. O'Steen:

"It takes the telltale fingerprints from the government: Instead of bureaucrats directly specifying the treatment denials that will

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mean death and poorer health for older people; it compels individual doctors to do the dirty work."

Even if this insidious provision does not survive in the eventual Senate bill, or is excluded from the subsequent House-Senate Conference Committee report on what President Barack Obama will eventually enact into law, its actual existence is a further warning to all of us to pay very close attention to all the health care "reform" bills before any of them becomes law. For some of us, our very lives may depend on the ultimate statute – not only because of the quality of care we will get, but, rather, for the nature of our final exit.

An adage that took me many years to understand is that "what the government gives, it can take away." That's why an essential individual responsibility of American citizenship is to keep a close eye on your government at all times.