

# To Opt Out or Not to Opt Out, That Is the Question—an Ophthalmologist's Perspective

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I regard my 12 years of postgraduate education traversed to become a physician and my subsequent twenty-plus years in service of my patients as a privilege, a blessing, and a rite of passage known to rare few—and understood and appreciated by fewer. As I reflect on my life in medicine, I become overwhelmingly nostalgic these days, and images of two historic paintings come to life in my mind: Sir Luke Fildes's 1887 *The Doctor* and Emanuel Leutze's 1851 *Washington Crossing the Delaware*. When I think about the day I opted out of Medicare the glorious music and lyrics of *Amazing Grace* strike up in my head accompanying the subjects of these paintings at work.

*Amazing Grace, how sweet the sound,  
That saved a wretch like me.  
I once was lost but now I'm found,  
Was blind, but now, I see.*

Medicare patients and all U.S. citizens have had money taken from their paychecks for their entire working lives, and are in effect conscripts in the "Medicare Army." However, as we all know, government flagrantly broke the promise it made to not interfere whatsoever with the practice of medicine, including the administration and financial aspects (§1801-§1803 of the Social Security Act).

Currently, government is expanding its conscription of seniors to include all patients who have health insurance, whether it is Medicare, Medicaid, or commercial, via the recently passed Medicare Access and CHIP Reauthorization Act (MACRA).

The Affordable Care Act (ACA) made buying insurance a federal law, so the only people free of federal conscription are those who resisted buying the insurance, whom government will henceforth punish with added taxes.

In this environment of government control of medicine one must ask: Is it the physician's duty to enable the system, effectively sanctioning government's broken promises, overreach, and failed plans? Or is our duty to better serve our patients by refusing to do so, as we innovate and forge new and better ways to care for our sick? I contend it is the latter.

The fact is that in ophthalmology, as I'm sure with every specialty, there is incredible technological advancement abounding, including intraocular lenses that correct refractive error at the time of cataract surgery, and laser cataract surgery that not only corrects astigmatism at the time of surgery but is shown by a growing number of studies to produce more predictable outcomes, to be beneficial for patients with certain conditions, and possibly to be safer

because of a clinically significant decrease in the occurrence of capsular tears.

Yet, Medicare covers none of this innovation for patients—only old-style lenses and no laser technology. Patients who desire such technology must pay on their own over and above what Medicare allows. I have developed a fee schedule whereby I can do the cataract operation using the new laser technology and lenses for less cost to the patient than what Medicare patients would end up paying out-of-pocket if they choose to see a Medicare participating physician (See Table). My fees are transparent and reasonable. Patients can choose to stick with what government spoons out, or upgrade and stay in my care for the perceived and real value of our patient-physician relationship, accessibility, state-of-the-art care, and most importantly, freedom from government rationing, denial, restriction, data collecting, and overall violation of their medical freedom.

Unfortunately, few doctors understand the complex Medicare bureaucracy. For example, I have a group of Medicare patients who have Aetna as a secondary insurer, whose benefits cover 100 percent when they see an opted-out physician and file out of network with their commercial secondary policy. Even Tricare covers 20 percent of the charges if they see me as an opted-out physician and then file a claim. Medicare Supplementary Insurance (MediGap policies), however, will not provide out-of-network benefits in most cases, but Medicare Advantage plans will provide out-of-network benefit up to 80 percent in many cases. Also, the patient can use Part B to cover the Ambulatory Surgery Center (ASC) costs of goods and services and the fee of a non-opted-out-anesthesiologist. With a standard lens implant, it costs a Medicare patient \$800 for my surgical fee, including three months post-op care. With a laser or lens upgrade it costs the patient the same or less than seeing someone else who accepts assignment. Participating physicians are charging for these extras (balance-billing, if you will) in addition to the approximately \$700 they receive from Medicare. So, this costs taxpayers and the patient more.

Although the government has created this horrendously complex situation, we must know what is going on to best serve our patients within the existing system as we create the way to work outside it.

At times I feel we are headed toward an underground railroad system for patients. Recently, I saw a Medicare patient who was experiencing a severe exacerbation of

her rheumatoid arthritis. The patient chose to see me, an ophthalmologist, as she waits 7 months to get an appointment with a participating rheumatologist. She calls the rheumatologist's office daily to check for cancellations and has been able to get her appointment moved up to 5 weeks from now. This is Canada/VA-style delay, or worse. I am seeking an opted-out rheumatologist with a reasonable fee schedule whom the patient can see. Unfortunately, there's not one in the entire San Antonio area. What a horrible situation for the patient!

A Medicare HMO patient must wait months to see the assigned Medicare HMO primary-care doctor. All other Medicare physicians who are not in her HMO would be committing fraud if they saw her and charged a fee. And the HMO will not cover a specialist consult without a referral from the assigned primary-care physician. Then, the patient waits again to see the specialist. Thus, the patient is forced to wait and suffer for months, or be seen by an opted-out ophthalmologist, because that is the only physician she can see within a reasonable period of time.

I am proud of the fact that I am better able to serve Medicare conscripts because I have opted out of Medicare. I have more time with my patients, who value me. They do not just regard me as an entitlement. I feel better physically,

mentally, and spiritually, now that I am out from under the government's boot and am able to freely and individually see my patients. Amazingly, as an opted-out physician, it is even legal for me to choose to see Medicare patients free of charge if they need but have trouble affording care.

My bank account and surgical volume do not look better, but as a newly opted-out physician, I am working on that as I learn more, educate more, and move my new practice model forward.

Yes, the Medicare system is perverse. But, I feel a little less perverse, a little less oppressed and abused, having opted out of Medicare. Opting out of Medicare takes immense communication and education of patients and staff, but it can and must be done. My patients thank me and ask why more doctors don't do the same.

I fear the central planners will continue to close doors on our underground railroad, but until then I am digging new tunnels as fast as I can. I hope and pray there is a massive movement of physician colleagues to jump on the train with me.

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	Laser + laser-astigmatism	Laser + astigmatism lens	Laser + multifocal lens
Medicare-participating surgeon: additional fee for noncovered service patient must pay on top of Medicare fee	\$1,395	\$2,395	\$3,845
My total fee for procedure including the optional service and advanced lens	\$1,200	\$1,870	\$2,835

**Table.** Out-of-Pocket Fees for Participating vs. Opted-out Surgeon (local Medicare-participating surgeon's fees compared with mine)