

# Whether to Opt Out of Medicare: How to Make a Titanic Decision

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S. Smiley Thakur, M.D.

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I seriously considered opting out of Medicare over the Christmas holidays of December 2007, when a 10.5 percent Medicare cut was looming for January 2008. On Aug 1, 2008, I sent letters to my patients and referring doctors letting them know I was changing to a “self-pay” practice model.

As of Oct 1, 2008, I opted out of Medicare, Medicaid, and all private-pay insurance. To my knowledge, I’m the first nephrologist in the United States to embrace this practice model.

I am a board-certified internist and nephrologist, with a fellowship in transplantation medicine. I’ve been in solo practice for 10 years in a major city. I accepted all insurance, including Medicaid. My practice has been strictly office-based since November 2004. There are equally qualified and more experienced specialists, and a university hospital, all within five miles of my office sites. I was fortunate that in this environment my practice was full.

The decision to opt out was difficult, and made over the course of 6 months. I liken it to a passenger on the *Titanic* deciding to jump ship days before it hit the iceberg. Such a move would surely have been seen as folly by fellow passengers, would have had few precedents, and might have seemed by some to be self-destructive. This article assumes the passenger/physician has already determined that he or she needs to jump ship, but isn’t sure what will happen afterward. I’ve arbitrarily divided my decision-making process into four steps: therapy, library, go lean, and jump.

## Therapy

This is the longest phase. It consists of years of being unhappy in clinical practice. Factors such as declining revenues and rising costs of practicing medicine are two easily identifiable stressors. Increased requirements for documentation, nonsensical coding and billing mandates, and the risk of audit and lawsuits were just some items on my list of uncontrollable elements.

On the personal front, I had neglected my health for years. I wanted to make time with my children and wife a priority. As devoted as I was to my practice, I didn’t want to cede any more time to it at the expense of my personal life. To continue practicing as it would mean further loss of autonomy and sense of self.

The first thing to recognize is that you are not alone. Many other physicians are experiencing the same symptoms. Talking with colleagues and visiting various physician discussion websites confirmed my impression.

I had read the AMA’s *American Medical News* for 6 years and had noted a recurring sequence of events: large projected Medicare

reimbursement cut, the AMA lobbies Congress, a lesser cut is enacted that still doesn’t cover the increased cost of running a practice, and the cycle repeats the following year. Once I realized this, I understood that staying in therapy would not help.

## Library

As a passenger on the *Titanic*, suppose you had advance knowledge of the impending disaster. Suppose you knew that an iceberg would mortally wound the ship’s hull in a few days. Medicare enrollees (the ship) will increase dramatically as the leading edge of the Baby Boom generation enters the program in 2011. Even with a moratorium on the 2008 cut of 10.4 percent, Medicare projects a 20.5 percent cut in physician fees (the iceberg) in 2010. What are your options? A quick visit to the ship’s library allows one to study ship design (the history of Medicare), icebergs (how it is funded), ocean currents (alternatives), and lifeboats (how to save yourself).

Information can be found piecemeal from various blogs, the Medicare website, and individual publications by typing “opt out Medicare” into a search engine. I found the most credible and thorough resource, however, to be the Association of American Physicians and Surgeons (AAPS) website. I also downloaded and printed the previous two years of publications from the *AAPS News* section.

Reading about the politics of Medicare, the expectations of a taxed public, and the bankrupting of an entitlement program gave me the motivation to acquire the necessary tools to create my escape plan. More importantly, I understood not only what I had to do, but also that to continue on the same course was no longer an option. I wrote out the letters I would ultimately send to patients and physicians. I wrote the entire text for what would become my website. My escape plan was completed by January 2008.

I obtained the names from AAPS of all specialists who had opted out, and called them. It was their positive review of my plan that gave me the courage to press on.

## Go Lean

This is perhaps the most important step. You must decide how little you will need to survive in the lifeboat, because the size of the lifeboat is not under your control. Living at or below your means is critical to initial survival in the lifeboat. In spite of all the encouragement I received, I became aware that opting out has not proven successful for all the physicians who did so. You may discover that opting out only hastens your financial crisis. This is a useful conclusion to learn because it leads one to seriously

consider early retirement, if possible, or nonclinical careers in medicine as alternatives.

The first step is to minimize your personal overhead. I undertook this in early 2008. We were doing our taxes and reviewing our family expenses on Quick Books. The key is to start cutting personal expenses immediately. Everything should be up for discussion. Pick what your family's sacred cows are, and be prepared to sell or do without the rest. I consider this step absolutely the most important.

The second step is to minimize your office overhead. This is much easier for solo physician practices. You need to understand all the expenses of running a practice. What do staff salaries, rent, liability insurance, and equipment leases cost? How can you cut expenses? As staff salaries are one of the highest practice expenses, the physician must consider reducing office staff, which is difficult, but must be done. I planned to, and did, let my transcriptionist, biller, and receptionist go. That left me with one medical assistant, as planned.

The third step is to calculate how many patients you will need to see on a daily basis in order to break even on expenses. How realistic, and how comforting, this number ends up being depends on how frugal you are prepared to be. The incentive to cut personal and business expenses is that you will require less productivity to cover both. The core inequity that occurs when one participates in government or private-pay insurance is that someone else places a value on your time. At this stage in your planning, you can correct this error by evaluating the different services you provide and determining, for yourself, the value of each service. This helps to refine the calculation of how many patient/services per day are needed to cover expenses.

The fourth step is to acknowledge that the majority of patients and doctors you've known for years will not follow you on this path. If you build it, they may in fact *not* come. When asked directly, some patients may feel uncomfortable and may not provide a candid response. Referring physicians similarly may not be forthcoming. I underestimated how much it would bother me that patients I'd known for years would not be coming back.

## Jump

Jumping from government's abusive ship isn't difficult, but one must follow specific requirements. If you are currently participating with Medicare, you may only opt out quarterly, in the month preceding that quarter. In order to opt out for Oct 1, Medicare would need to receive my opt-out affidavit in September. A sample opt-out letter is available on the AAPS website. Be sure to send the letter via certified mail with return receipt requested. Medicare will also send you a confirmation letter of your opt-out status. You have 90 days from the effective opt-out date to change your mind (get back on the sinking ship). Be aware that every two years you must again opt out of Medicare. The logic of this speaks for itself, and is yet another reason to leave Medicare.

You must provide Medicare beneficiaries 30 days notice of your opting out. I sent letters to patients Aug 1, notifying them I'd be out

as of Oct 1. I thought 60 days was more than enough time for patients to call me or come in to discuss this change.

Medicare beneficiaries must sign an "opt-out agreement" (contract) that acknowledges they and you have no intention of billing Medicare. I use this opportunity to explain, by example, the control Medicare continues to seek over physicians, even those who are no longer in the Medicare program. I hired an attorney who provided me with a current contract, to which I added a few phrases that he approved.

I used the time from Aug 1 to Oct 1 to explain to patients, face to face at their appointment, why I wrote the letter, and explained the terms of the contract to them. I thought this was important so that patients had a realistic idea of what their yearly out-of-pocket costs would be. I extrapolated this information from their previous visit history, frequency, and level of intensity.

To my pleasant surprise, many patients walked in and handed me a signed contract. An equal number hedged, saying they needed to think about it. None in this latter group subsequently signed. Several contracts arrived signed in the mail. I received warm letters of thanks from some patients who were transferring care. About half the patients told me to my face that they wouldn't be coming back. This was exceptionally hard to hear. I was emotionally exhausted during these two transition months, as I had to brace myself before each visit, not knowing whether the patient was going to stay or go.

I received letters and phone calls of support from numerous physicians. Several physicians called to ask whether I was okay. I appreciated these calls of concern for my emotional well-being.

My schedule for Oct 1 (first day in cold water) read like a nightmare scenario: no patients. Fortunately I had anticipated this. I had referral tearsheet pads made up, and I visited my referring doctors that day and all through October. My patient volume picked up; by 3 weeks, I was at my break-even point, covering expenses. All patients whom I see in the office are happy to see me, and I am humbled to see them. This volume of business, of course, only reflects the number of patients I had that continued on with me. The first hopeful indication that my practice would grow again came on Oct 13, when I got my "first" new consult.

It is still too early to tell whether my decision was the correct one from a financial perspective. From a moral and intellectual perspective, patients and doctors know that Medicare is not sustainable in its current form, and a financial crisis is unavoidable. I sense I am on the right side of this issue.

To those still calculating and deciding, I would advise: Be cautious. Be informed. But in this life, be bold.

**Acknowledgements:** My thanks to doctors Michael Harris, Michael Schlitt, Michael J.A. Robb, Paul Brown, and David Albenberg for helping me through various stages of this process.

**N.B.** The forms mentioned above are available on Dr. Thakur's website [www.kidney.nu](http://www.kidney.nu).

**S. Smiley Thakur, M.D., FRCPC**, practices nephrology in Seattle and Issaquah, Wash. Contact: [optout@kidney.nu](mailto:optout@kidney.nu)