

Editorial:

# Medicare: Incompetence-Based Bureaucracy

**Lawrence R. Huntoon, M.D., Ph.D.**

In 2002, the General Accounting Office (GAO), now known as the Government Accountability Office, published a study revealing that 85 percent of the time Medicare customer service representatives (CSRs) gave the wrong answer to questions posed by physicians regarding the proper way to bill Medicare so as to obtain payment.<sup>1</sup> The Centers for Medicare and Medicaid Services (CMS) promised to take steps to remedy the problem.

After reviewing the 2002 study, I concluded two years ago that a monkey could answer Medicare policy questions as accurately as a Medicare bureaucrat. Today, after examining the results of the GAO's follow-up study, published in July 2004, I felt compelled to find a more appropriate comparison and test subject. My search ended when a creature from the family *Bufo* volunteered his services. Covered in warts, and an avid promoter of the low-carb, bug-and-fly diet, he might, I felt, have the right stuff to participate in my GAO-like study.

Under carefully controlled conditions, I rephrased the GAO's Medicare policy questions, so that the toad could provide a "yes" or "no" response by jumping to the right or left, respectively. The result: 50 percent of the time, the toad answered the questions correctly.

Given the miserable performance of Medicare bureaucrats revealed in the 2002 study, one might think that the CMS overseers would have taken some action so as to approximate the accuracy of the toad.

## **Error Rate in 2004**

The results of the GAO's 2004 study, however, are as follows: Ninety-six percent of the time, Medicare CSRs gave the wrong answer to questions posed by physicians regarding the proper way to bill Medicare so as to obtain payment.<sup>2</sup> That is precisely 46 percent worse than the performance of the toad.

How difficult were the questions? The questions were taken from the carriers' own web sites. "The questions represented common, policy-oriented questions concerning the proper way to bill Medicare in order to obtain payment." CMS officials were allowed to review all of the questions beforehand to make sure that they were not too hard. Medicare contractors were even told that they were going to be tested: "To facilitate our calls, CMS officials informed call center managers of our test." The CSRs knew exactly when they were being tested: "During our calls, we identified ourselves as GAO representatives and asked each CSR to answer our question as if we were providers." The test, of course, was "open book": the Medicare

contractor had all of the written and electronic source materials necessary to answer the questions correctly.

## **Medicare Policy Too Complex**

What did the GAO conclude was the cause of such poor performance? Among other things, the GAO found that Medicare policies and regulations were so complex and confusing that neither Medicare CSRs nor CMS policy experts could understand them.

"CMS officials acknowledged that some policies contain complex language. In addition, they told us that the agency's goal of quickly publishing a policy that is technically correct may sometimes overshadow its effort to develop a clear and understandable document." In other words, in some cases they purposely publish incomprehensible Medicare policies.

The Medicare policies in fact are so complex that "CMS has retained a consulting firm to write explanatory articles about new Medicare policies." Indeed, CMS acknowledges that "specialized training is required to understand the billing codes and modifiers that providers must include on their claims forms to receive payment from the program."

So, if the people whose full time job it is to write and interpret Medicare policies have to hire consulting firms, and depend on those with "specialized training" in order to understand the very regulations they have written, what is a busy practicing physician supposed to do?

With more than 200 policy changes per year, CMS also indicated that it was nearly impossible for the Medicare CSRs to keep up with all of the changes: "They explained that the CSR position is particularly challenging because, in addition to learning how to access and utilize multiple information systems, these employees must stay abreast of Medicare policy changes to answer the broad range of inquiries received by the carrier call centers."

## **Magnitude of the Problem**

The scope of the problem is stunning. In 2003, Medicare contractors responded to 21 million "provider" inquiries. Using the same extrapolation technique that Medicare has used to recoup funds from physicians, the error rate would translate to 20,160,000 wrong answers to "provider inquiries" in 2003. Even using the GAO's conservative estimate of the number of "policy-oriented" inquiries of 500,000, that would still translate into an astounding 480,000 wrong answers. The practical significance is that somewhere between 480,000 and 20,160,000 Medicare claims are

wrongfully denied per year because of wrong information provided by incompetent Medicare bureaucrats.

Consider what would happen if your local fast-food restaurant got the orders wrong 96 percent of the time. The customer-oriented free market would never tolerate such poor performance. The anti-free-market Medicare bureaucracy, however, is neither accountable to its “beneficiary/ customers,” nor to its slave “providers.” Thus, the Medicare bureaucracy not only tolerates poor performance, but judging from the way it monitors performance, it considers accuracy and competence irrelevant.

### Carrier Performance Evaluation

CMS’s principal oversight tool is the carrier performance evaluation (CPE), carried out by specially trained CMS review teams. Here is what the GAO had to say about the criteria CMS uses to evaluate CSR responses to “provider” inquiries: “We found that the CPE evaluation criteria are not designed to verify that CSR’s responses to providers are accurate.” In fact, CMS claims that evaluating the accuracy of CSR responses isn’t in their job description: “CPE evaluators are not required to evaluate the correctness of responses provided by a CSR; rather, they are expected to ensure that the carrier has a system in place to monitor calls.”

So what do CMS review teams consider most important in evaluating CSR responses to provider inquiries? Incredibly, the tone and volume of the CSR’s voice, and other toady things designed to dispense with the call more quickly, were given top priority in assessing CSR performance: “[W]e observed a CPE review team concentrated on procedural items such as how long a caller was kept on hold, rather than on whether the information provided was correct and complete.” This is not surprising, as “CMS requires that CSRs be evaluated on customer skills—such as vocal tone, volume, and politeness....”

Even if CMS officials wanted to evaluate the accuracy of CSR responses, lack of expertise and a definition of the term “accurate” would prevent them from carrying out such a task: “[W]e reported in 2002 that CMS’s definition of what

constitutes accuracy is neither clear nor specific.” And “...CMS has not revised the definition.”

As the GAO recognizes, “Without such guidance or other criteria linked to measurable outcomes, the carrier has little basis to evaluate the correctness and completeness of CSRs’ responses to policy-oriented questions.” Additionally, “CMS officials recently told us...that in many instances, CPE evaluators do not have the expertise to evaluate the accuracy of CSRs’ responses.”

Moreover, following the scathing 2002 GAO report, CMS made no attempt to even make it look as if it was monitoring the performance of CSRs. “In fiscal year 2002, only one carrier call center had a CPE covering provider telephone inquiries. Not one CPE was performed in fiscal year 2003.” The conclusion that CMS considers accuracy and competence to be irrelevant is inescapable.

Why any physician would continue to “participate” and suffer at the hands of such an incompetent bureaucracy is incomprehensible.

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### REFERENCES

<sup>1</sup> U.S. General Accounting Office. *Medicare: Communications with Physicians Can Be Improved*, GAO-02-249. Washington, D.C. GAO; Feb. 27, 2002. Available at: [www.gao.gov/cgi-bin/getrpt?GAO-02-249](http://www.gao.gov/cgi-bin/getrpt?GAO-02-249). Accessed Oct. 25, 2004.

<sup>2</sup> U.S. Government Accountability Office. *Medicare: Call Centers Need to Improve Responses to Policy-Oriented Questions from Providers*, GAO-04-669. Washington, D.C.: GAO; July, 2004. Available at: [www.gao.gov/cgi-bin/getrpt?GAO-04-669](http://www.gao.gov/cgi-bin/getrpt?GAO-04-669). Accessed Oct. 25, 2004.

### CSRs’ 59<sup>th</sup> Street Bridge Song, or Feelin’ Toady

*Slow down, you talk too fast.  
Got no clue what you just asked.*

*Just pickin’ up the telephones,  
Stumbling for answers and  
Feelin’ toady.*

*Right or wrong, just feelin’ toady.*



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