

American Academy of Actuaries
Washington Forum

Medical Malpractice & Its Impact on Health Care

May, 2003

Presented by:

David V. Axene, FSA, MAAA, FCA
President & Consulting Actuary
Axene Health Partners, LLC

Overview

- Medical malpractice myths
- Affordability considerations
- Access considerations
- Role for managed care principles
- Q&A

Medical Malpractice Myths

- Managed care causes malpractice claims
 - Lowest rate of malpractice claims tends to come from physicians with the greatest proportion of their activity in effective managed care
 - Quality converges with efficiency (i.e., highest quality from those providers who have the greatest skill level)
 - Managed care used appropriately actually reduces medical malpractice liability

Medical Malpractice Myths

continued

- Malpractice claims result from mistakes
 - Many do, however, a greater portion seem to come from litigious dissatisfied patients
 - As patient expectations go unmet, the chance of litigation increases greatly.
 - Customer satisfaction is extremely important
 - Unrealistic patient expectations create significant risk, providers need to be more realistic in what they tell patients up front

Affordability Considerations

- General sluggishness of overall economy
- Continuing health cost increases
 - Return of big double digit increases
 - No longer just an Rx problem
 - Significant provider demands
 - Continued technology challenges
 - Malpractice crisis
- Legislative challenges
 - “Reverse” sentinel effect of Patient Bill of Rights
 - HIPAA and its impact on health costs

Affordability Considerations

continued

- What is health care affordability?
 - A measure of our continued ability to pay for our health care services and health care benefit programs
 - Our ability to pay for health care without significant sacrifice
 - Goes beyond concerns over cost, includes reflection of how much income is there to pay for services
- Why is this a concern now?
 - Generally weak economy, particularly the post-9/11 and post-Enron economy, reduces available funds to pay for health care services

Affordability Considerations

continued

- How is health care affordability defined?
 - The AHP Health Care Affordability Index™ defines it as a normalized ratio of health care costs to available income.
 - Three separate indices are calculated for employers, employees and the government, with an overall combined ratio based upon a simple average of the three indices. Each indices is separately normalized to 1.00.
 - In addition, a private index is derived as the average of the employer and the employee

Affordability Considerations

Table 1: HCAI Indices

State	Employer	Employee	Private		
			Payer	Govt	Combined
U.S. Total	1.00	1.00	1.00	1.00	1.00
Delaware	0.82	0.71	0.77	0.42	0.65
Colorado	0.94	0.80	0.87	0.60	0.78
Nevada	1.04	0.67	0.86	0.69	0.80
New Jersey	0.97	0.73	0.85	0.73	0.81
Hawaii	0.94	0.71	0.83	0.83	0.83
Minnesota	1.07	0.84	0.95	0.60	0.83
Virginia	0.91	0.86	0.89	0.77	0.85
Washington	0.95	0.92	0.94	0.71	0.86
California	0.88	0.91	0.90	0.83	0.87
Alaska	0.90	0.79	0.85	0.95	0.88
Georgia	0.90	1.06	0.98	0.70	0.88
Wyoming	1.04	0.83	0.93	0.77	0.88
Connecticut	0.87	0.98	0.93	0.85	0.90
Illinois	1.03	1.01	1.02	0.71	0.91
Massachusetts	0.86	0.93	0.90	0.94	0.91
Michigan	1.29	0.64	0.97	0.83	0.92
Oregon	0.93	0.92	0.93	0.93	0.93
Ohio	1.09	0.75	0.92	1.00	0.95
Utah	1.05	1.09	1.07	0.72	0.95
Idaho	1.05	1.08	1.06	0.75	0.96
Maryland	1.15	0.77	0.96	0.96	0.96
Arizona	0.93	1.04	0.98	0.97	0.98

continued

Iowa	1.06	0.89	0.97	0.99	0.98
Nebraska	1.04	1.02	1.03	0.90	0.98
Missouri	1.08	0.84	0.96	1.05	0.99
Kansas	1.11	1.01	1.06	0.88	1.00
Rhode Island	1.06	0.78	0.92	1.23	1.02
Indiana	1.17	0.87	1.02	1.05	1.03
New Hampshire	0.98	1.10	1.04	1.05	1.04
Wisconsin	1.32	0.92	1.12	0.89	1.04
Texas	0.97	1.32	1.15	0.90	1.06
New York	0.87	0.95	0.91	1.37	1.07
Pennsylvania	1.10	0.78	0.94	1.33	1.07
North Carolina	0.91	1.18	1.05	1.18	1.09
New Mexico	0.82	1.31	1.06	1.22	1.12
Oklahoma	1.20	1.24	1.22	0.92	1.12
Vermont	1.36	1.02	1.19	1.07	1.15
Arkansas	1.12	1.32	1.22	1.07	1.17
Tennessee	0.99	1.24	1.12	1.33	1.19
Florida	0.98	1.26	1.12	1.41	1.22
Kentucky	1.10	0.99	1.04	1.60	1.23
Montana	1.42	1.25	1.33	1.20	1.29
South Carolina	1.10	1.23	1.17	1.57	1.30
Maine	1.27	1.16	1.22	1.57	1.33
Alabama	1.04	1.35	1.19	1.67	1.35
Mississippi	1.25	1.53	1.39	1.90	1.56
Louisiana	0.97	1.70	1.34	2.26	1.64
West Virginia	1.05	1.70	1.37	2.32	1.69

Source: AHP Health Care Affordability Index

Affordability Considerations

continued

- Health care affordability varies considerably from one region to another

	State	%
Range	Distribution	Distribution
< 0.80	2	4.10%
0.80 - 0.89	10	20.80%
0.90 - .99	13	27.10%
1.00	1	2.10%
1.01 – 1.10	8	16.70%
1.11 – 1.20	5	10.40%
1.210 - 1.30	4	8.30%
1.31 – 1.40	2	4.10%
1.41 – 1.50	0	0.00%
> 1.50	3	6.30%
Total	48	100.00%

Source: AHP Health Care Affordability Index

Affordability Considerations

continued

- What impacts local health care affordability?
 - Strong correlation to inpatient utilization (correlation = .37)
 - Modest reverse correlation with managed care penetration (correlation = -.19)
 - Strong correlation to provider supply (correlation = .51)
 - Modest reverse correlation to average hospital size (correlation = -.20), much stronger when looking at private indices
 - Strong negative correlation to strength of local economy (correlation = -.35)
 - Very strong correlation with employee and government indices (correlation = .86 and .95, respectively)

Source: AHP Health Care Affordability Index

Affordability Considerations

continued

- So what does this have to do with medical malpractice?
 - Understanding health care affordability adds a sense of urgency to anything that is adversely affecting affordability
 - Affordability is only one issue but still an important one
 - As malpractice becomes an issue, there is a tendency for malpractice avoidance (do more to avoid a problem) which raises costs and hurts malpractice

Access Considerations

- Two pronged concern
 - Higher malpractice costs may result in fewer providers to serve patients (i.e., patients can't get care)
 - Higher malpractice costs will lead to higher health costs and more uninsureds (i.e., patients can't afford care)
- Any increase in provider overhead can potentially cause serious financial concerns to provider community, not just malpractice premiums

Role For Managed Care Principles

- To preserve networks, health plans must understand provider performance and their propensity for malpractice litigation
- Standardization of patient care will reduce practice variations and malpractice risk. Use of guidelines will increase
- Medically unnecessary care needs to be avoided
- Supreme Court decision on any willing provider will increase the need to understand provider malpractice risk

Q&A

Axene Health Partners, LLC
www.axenehp.com