

Ethical Implications of Public Disclosure of Medicare Payments to Individual Physicians

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UT Southwestern Ethics Grand Rounds

March 10, 2015

Overview of Presentation

- What is Medicare's Physician-Payment Data Release?
- Examples of the data and how the data have been used
- Ethical issues and implications
- Future directions
- Questions and discussion

Background: I

- 1979: Federal District Court in Florida, in a case brought by the Florida Medical Association, concludes that the disclosure of payments to individual physicians constitutes “an unwarranted invasion of privacy.”
- May 2013: Florida court vacates the 1979 injunction, concluding that the injunction lacked a legal basis for continued enforcement.

Background: II

- August 2013: CMS requests comment on potential release of physician data
- April 9, 2014: Medicare Physician-Data Release
- CMS statement: “Data like these can shine a bright light on how care is delivered in the Medicare program....[Data can be used] to drive decision-making and reward quality, cost-effective care.”

Background: III

- In 2014, CMS modified its long-standing policy of routinely denying requests for the disclosure of the amounts that had been paid to physicians under the Medicare program.
- Instead, CMS “will make case-by-case determinations” that “weigh the balance between the privacy interest of individual physicians and the public interest in disclosure of such information.”

Medicare Physician-Data Release in April 2014

- Data on 880,000 physicians and other health care professionals who collectively received \$77 billion in payments in 2012 for services delivered to beneficiaries under the Medicare Part B fee-for-service program.
- Data include 6,000 different types of services and procedures.
- No personally identifiable information about beneficiaries.

Medicare Physician-Data Release in April 2014

- Top 100 doctors received a total of \$610 million; about half of these doctors were ophthalmologists.
- 28 of the top 100 doctors were from Florida; 10 more were from California.
- About 2% of doctors accounted for \$15 billion in payments.
- Lucentis, a drug used for macular degeneration, accounted for about \$1 billion in spending.

Medicare Provider Utilization and Payment Data: Physician and Other Supplier Look-up Tool

This look-up tool is a searchable database that allows you to look up a provider by National Provider Identifier (NPI), or by name and location. The look-up tool will return information on services and procedures provided to Medicare beneficiaries, including utilization information, payment amounts (allowed amount and Medicare payment), and submitted charges organized by Healthcare Common Procedure Coding System (HCPCS) code. The data covers calendar year 2012 and contains 100% final-action physician/supplier Part B non-institutional line items for the Medicare fee-for-service population (information is redacted where necessary to protect beneficiary privacy).

The database is populated from the Physician and Other Supplier Public Use File (PUF). While the Physician and Other Supplier PUF has a wealth of information on payment and utilization for Medicare Part B services, the dataset has a number of limitations. Of particular importance is the fact that the data may not be representative of a physician's entire practice as it only includes information on Medicare fee-for-service beneficiaries. In addition, the data are not intended to indicate the quality of care provided and are not risk-adjusted to account for differences in underlying severity of disease of patient populations. To review more information about the Physician and Other Supplier PUF, please refer to the [Methodology document](#).

When populating any field in the look-up tool, you need to enter content exactly. You may choose to populate only one field, but partial entry will yield exact matches.

Download Full Dataset

 Download

Find a Provider

By Name and Location:
Find a provider by one or more fields. Please use exact spelling.

Last Name / Organization

First Name

City

State

(Select State)

Find

This look-up tool is populated from the Physician and Other Supplier Public Use File (PUF). While the Physician and Other Supplier PUF has a wealth of information on payment and utilization for Medicare Part B services, the dataset has a number of limitations:

1. The tool only describes care delivered to Medicare beneficiaries in the fee-for-service program and, as a result, may not represent a provider's entire practice. Providers may also see patients enrolled in Medicare Advantage, those with Medicaid coverage or private health insurance, or those who are uninsured.
2. The tool does not provide any information on the quality of care delivered by providers.
3. The information in the tool does not account for differences in the sickness of patients treated by different providers.
4. Medicare pays differently when services are provided in a physician's office versus a facility (e.g., a hospital outpatient department). For services furnished in an office setting, this tool presents the full payment. However, if a service or procedure was furnished in a facility setting, in most cases, this data only includes the payment to the provider and not the payment to the facility.
5. In general, when a provider administers drugs to a patient, the provider purchases the drug and Medicare pays the provider 106% of the average sales price (ASP) for the drug.
6. The way CMS counts services may differ by HCPCS code. For example, if the Number of Services is 2 this may reflect two separate procedures, two 15 minute increments of a service (e.g., a 30 minute office visit), or the delivery of two units of a drug.

Electrocardiogram complete

HCPCS Code: 93000

Place of Service: Office

90

Number of Services

86

Number of
Beneficiaries

\$111

Average Submitted
Charge

\$20.88

Average Medicare
Allowed Amount

\$14.57

Average Medicare
Payment

Office/outpatient visit new

HCPCS Code: 99204

Place of Service: Office

27

Number of Services

27

Number of
Beneficiaries

\$519.78

Average Submitted
Charge

\$170.62

Average Medicare
Allowed Amount

\$128.2

Average Medicare
Payment

Office/outpatient visit est

HCPCS Code: 99213

Place of Service: Office

113

Number of Services

90

Number of
Beneficiaries

\$232.35

Average Submitted
Charge

\$75.64

Average Medicare
Allowed Amount

\$47.95

Average Medicare
Payment

Initial hospital care

HCPCS Code: 99223

Place of Service: Facility

21

Number of Services

21

Number of
Beneficiaries

\$740.38

Average Submitted
Charge

\$219.54

Average Medicare
Allowed Amount

\$173.73

Average Medicare
Payment

Subsequent hospital care

HCPCS Code: 99232

Place of Service: Facility

52

Number of Services

23

Number of
Beneficiaries

\$269.77

Average Submitted
Charge

\$78.97

Average Medicare
Allowed Amount

\$63.18

Average Medicare
Payment

Subsequent hospital care

HCPCS Code: 99233

Place of Service: Facility

42

Number of Services

21

Number of
Beneficiaries

\$390

Average Submitted
Charge

\$113.04

Average Medicare
Allowed Amount

\$90.43

Average Medicare
Payment

Caveats about Medicare's Physician Payment Data

- Do not reflect a physicians' entire practice
- “Volume-centric.” Not risk adjusted. No information on quality of care.
- May reflect “pass through” costs of medicines (oncology, ophthalmology) or aggregated billings for multiple physicians.

Charles Ornstein ProPublica, April 8, 2014

There are many reasons why a doctor may receive large payments from Medicare. For one, the doctor may treat exclusively Medicare patients. In such cases, the doctor's payments would naturally look larger compared to peers who also see a lot of privately insured patients (this is called a provider's payer mix). Another explanation is that the doctor may provide services, such as eye surgery or cancer care, that are reimbursed at higher rates than typical office visits. A third explanation is that the provider may have other professionals billing under his/her Medicare number, which is allowed in some circumstances. Of course, there may be other reasons that raise questions of fraud, but don't just assume that because a number is large, a doctor has done something wrong.

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Political Ties of Top Billers for Medicare

By FRANCES ROBLES and ERIC LIPTON APRIL 9, 2014



The F.B.I. and other law enforcement officials investigated the medical practice of Dr. Salomon E. Melgen.

Joe Raedle/Getty Images

 Email

MIAMI — Two Florida doctors who received the nation's highest Medicare reimbursements in 2012 are both major contributors to Democratic Party

Political Ties of Top Billers for Medicare

- An ophthalmologist in North Palm Beach, FL received \$21 million in reimbursements, mostly for Lucentis, a medication to treat macular degeneration.
- \$700,000 in donations to a Democratic Super PAC that helped to re-elect Sen Robert Menendez of New Jersey.
- Senator intervened on behalf of the physician when CMS questioned his billings.

Ranibizumab injection

HCPCS Code: J2778

Place of Service: Office

37075

Number of Services

645

Number of
Beneficiaries

\$460.42

Average Submitted
Charge

\$399.95

Average Medicare
Allowed Amount

\$317.69

Average Medicare
Payment

First on CNN: Feds prepare criminal corruption charges against Senator Bob Menendez

By **Evan Perez** and Shimon Prokupecz, CNN

🕒 Updated 3:08 PM ET, Fri March 6, 2015



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Political Ties of Top Billers for Medicare

- A cardiologist in Ocala, FL received more \$18.2 million in reimbursements; the second highest total for a cardiologist was \$4.5 million.
- The physician donated at least \$250,000 to President Obama and other Democrats; he also hired a lobbying firm to lobby about a dozen members of Congress about his scrutiny by Medicare auditors.
- In January 2015, the Justice Department joined two whistle-blower lawsuits against the doctor, that accuse him of billing Medicare for unnecessary operations to treat blocked peripheral arteries.

Fem/popl revasc stnt & ather

HCPCS Code: 37227

Place of Service: Office

565

Number of Services

328

Number of
Beneficiaries

\$29,519.56

Average Submitted
Charge

\$14,832.14

Average Medicare
Allowed Amount

\$11,844.23

Average Medicare
Payment

Top Acthar Prescribers in Medicare Have Ties to Its Maker

The top four prescribers of the drug were promotional speakers, researchers or consultants.

by [Charles Ornstein](#)

ProPublica, Aug. 4, 2014, 10 a.m.

0 Comments

Many of Medicare's top prescribers of the expensive specialty drug H.P. Acthar Gel have financial ties to the drug's maker.

Only 18 practitioners wrote 15 or more prescriptions for the drug in 2012. At least nine — and all of the top four — were promotional speakers, researchers or consultants for Questcor Pharmaceuticals, a ProPublica analysis shows.

We identified the top prescribers of Acthar by using data from Medicare's prescription drug program, known as Part D. We determined if physicians had financial relationships

This is part of an ongoing investigation

Dollars for Doctors

ProPublica is tracking the financial ties between doctors and medical companies.



Research Letter | February 2015

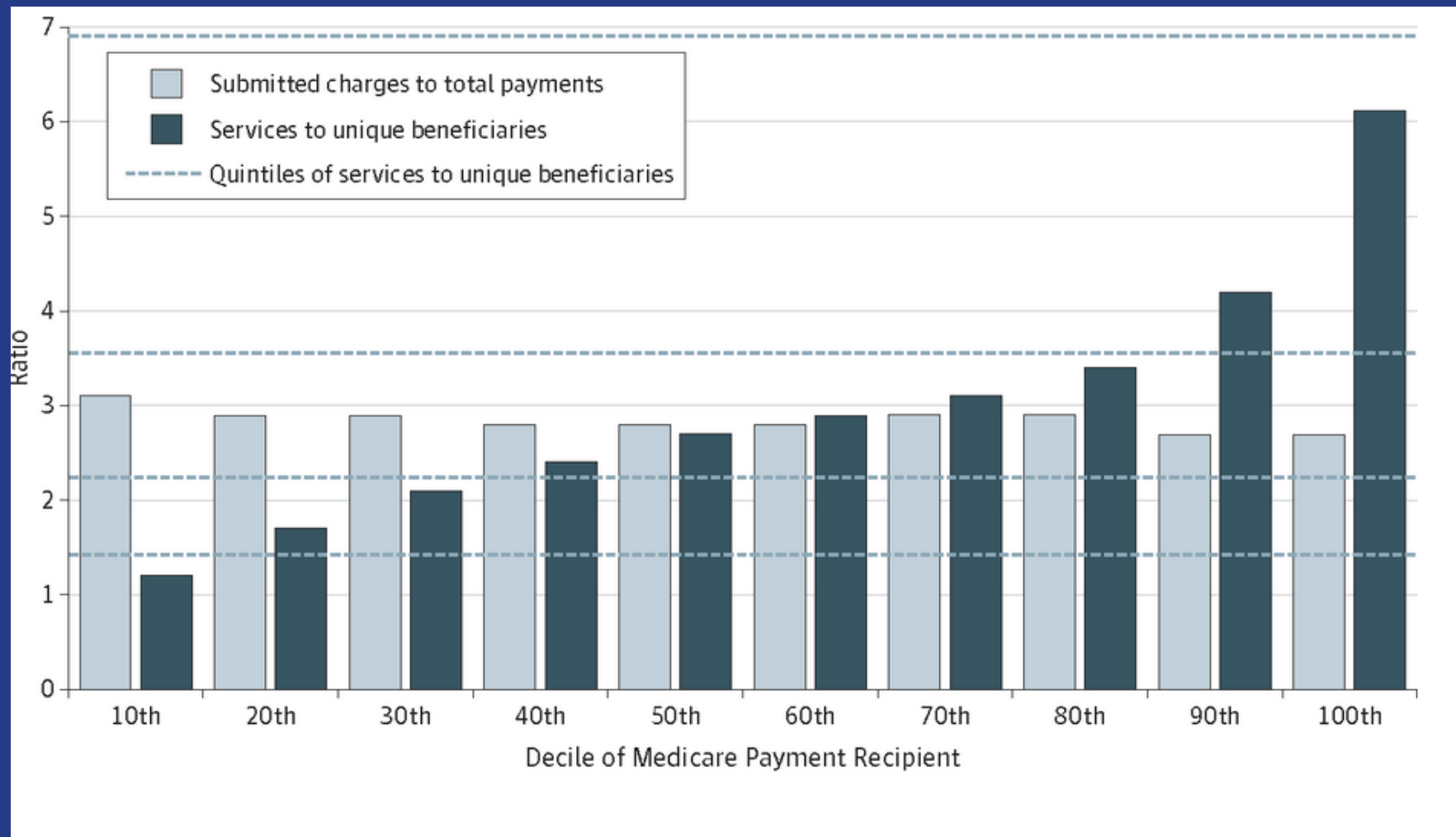
Service Intensity and Physician Income Conclusions From Medicare's Physician Data Release

Jonathan Bergman, MD, MPH^{1,2,3}; Christopher S. Saigal, MD, MPH^{1,3,4}; Mark S. Litwin, MD, MPH^{1,5}

[\[+\] Author Affiliations](#)

JAMA Intern Med. 2015;175(2):297-299. doi:10.1001/jamainternmed.2014.6397.

Text Size



Service Intensity and Physician Income

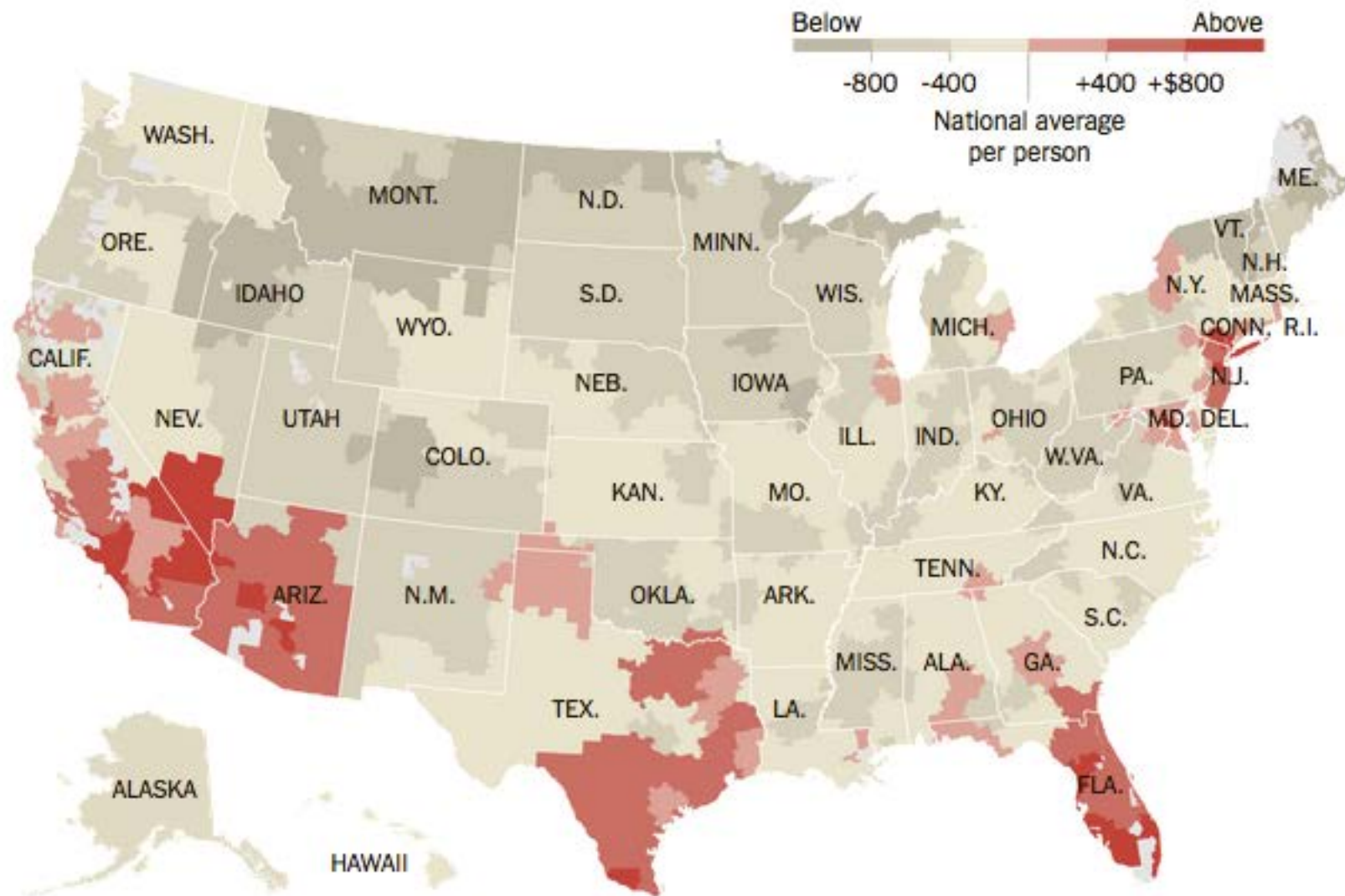
- “These data indicate that higher-earning physicians earn more not by treating more patients but by offering more services per beneficiary. The relationship between these additional services and any meaningful improvement in outcomes is undefined.”

“Medical Costs Rise as Retirees Winter in Florida”

- More than twice the number of nuclear stress tests, echocardiograms and vascular ultrasounds were ordered per Medicare beneficiary doctor's offices in Florida than in Massachusetts in 2012, according to a New York Times analysis of the Medicare part B data.
- Elisabeth Rosenthal, January 31, 2015

Exams in Years Before Death

Florida's seniors lead the nation in the cost of diagnostic tests and imaging during their final two years of life.



Note: Spending totals from Medicare Part B, 2011-12.

Source: Dartmouth Atlas of Health Care

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Research Letter | October 2014

Using Medicare Data to Understand Low-Value Health Care

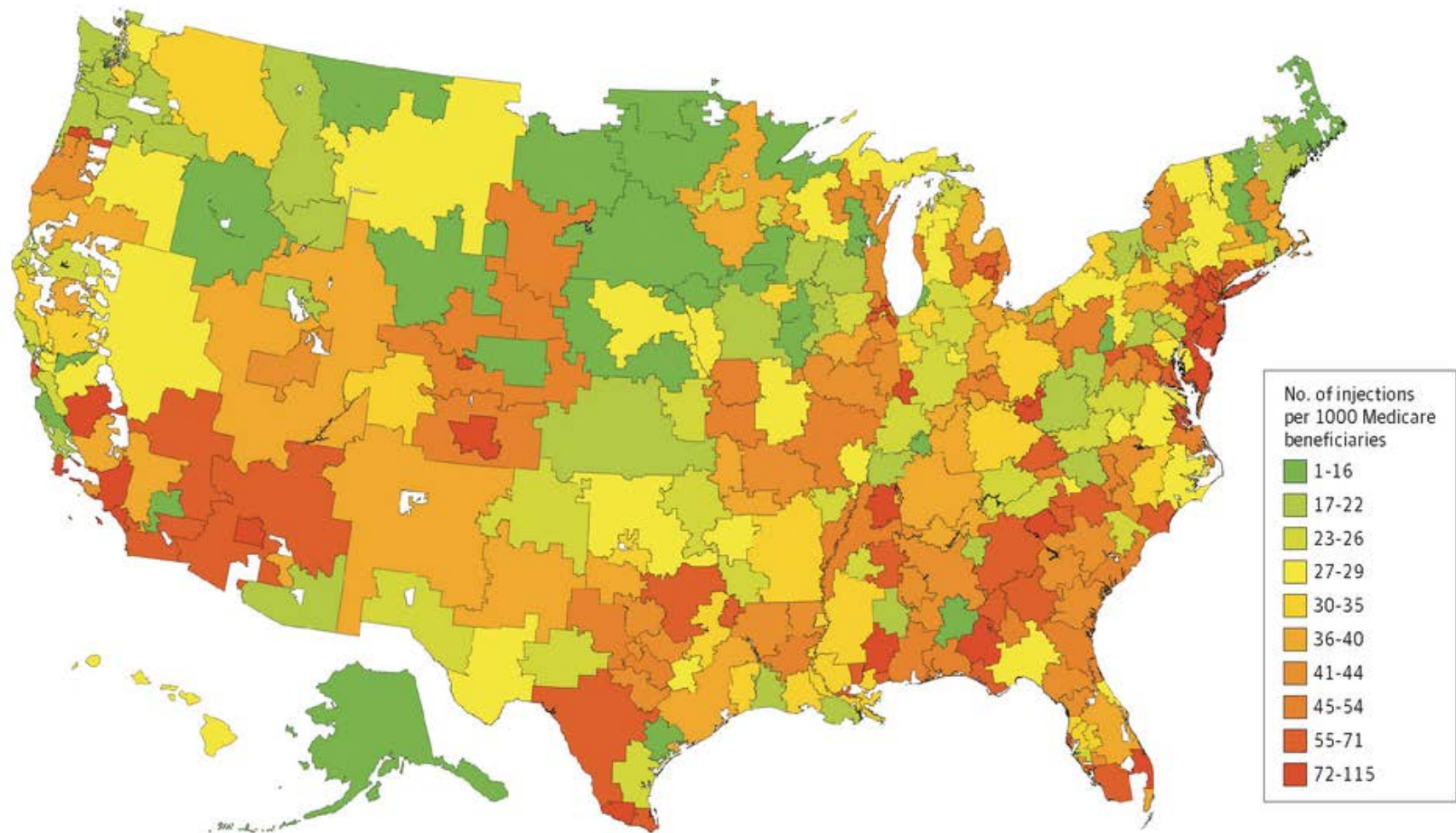
The Case of Intra-articular Hyaluronic Acid Injections

Gabriela Schmajuk, MD, MS^{1,2}; Kevin J. Bozic, MD, MBA^{3,4}; Jinoos Yazdany, MD, MPH¹

[\[+\] Author Affiliations](#)

JAMA Intern Med. 2014;174(10):1702-1704. doi:10.1001/jamainternmed.2014.3926.

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Overview of Presentation

- Ethical issues and implications
- Future directions
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Ethical Issues

- Privacy: physician and patient
- Fraud, waste and abuse
- Overuse of medical services
- Low value use of medical services
- Means to improve care and control costs
- Financial conflicts of interest
- Data transparency
- Good stewardship of public funds

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Data.Medicare.gov

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Announcements

[Open Payments System Now Open for Registration and Data Submission](#)

Learn more about final rule changes to be implemented for 2016 data collection.

View the Data

[Use the Search Tool on Identified Data \(beta\)](#)

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[Download Open Payments Datasets](#)

[Instructions for Searching with the Data Explorer](#)

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Contact the Help Desk:
[1.855.326.9266](#)

Open Payments

Sometimes, doctors and hospitals have financial relationships with health care manufacturing companies. These relationships can include money for research activities, gifts, speaking fees, meals, or travel. The Social Security Act requires CMS to collect information from [applicable manufacturers and group purchasing organizations \(GPOs\)](#) in order to report information about their financial relationships with physicians and hospitals. Open Payments is the federally run program that collects the information about these financial relationships and makes it available to you. For an overview of the published data, [view our factsheet](#).



Explore the Data

Use the [new, simple search tool](#) to search all the identified Open Payments data. [Download](#) all Open Payments data in detail.



Open Payments Data in Context

What is a conflict of interest? What is nature of payment? [Learn about Open Payments](#) and what it may



Program Participants: Access the System

Physicians, teaching hospital representatives, applicable manufacturers, and applicable

Future Directions: I

- Transparency about how Medicare spends about \$600 billion a year (20% of total National Health Expenditures is now at a tipping point, where the public availability of information about charges and payments to physicians and hospitals has become increasingly routine.

Future Directions: II

- Physicians should assume that their Medicare claims data will eventually become public.
- The data are often more likely to be used (and to be useful) to employers, other large purchasers of care, physician groups, hospitals, health care systems, researchers and journalists than to consumers.

Future Directions: III

- Greater utility of the data to consumers will require improvements in the quality and specificity of the data (so that the meaning of the information is clearer) and in search capabilities.

