Ethics of Physician Incentives

Managed Care Consortium
Center for Practical Bioethics
1111 Main Street, Suite 500
Kansas City Missouri  64105-2116
www.practicalbioethics.org
bioethic@practicalbioethics.org
Ethics of Physician Incentives

Incentive packages for physicians in managed care have come under intense scrutiny from both inside and outside the industry. Pressure from state legislators, the recently issued HCFA rules limiting the use of incentives by HMOs, and the volume of writing in the trade and bioethics journals highlight the importance of this issue. In response, Midwest Bioethics Center's Managed Care Ethics Consortium decided to discuss the question:

How can managed care plans create provider incentives that will promote appropriate care and uphold established ethical principles?

The Consortium's ultimate goal was to help plans achieve incentive systems that promote appropriate care and uphold established ethical principles while encouraging cost conscious behavior. An incentive system is a set of rewards designed to motivate desired professional behavior. Rewards can be financial or nonfinancial, for example, performance bonuses, inclusion in the panel, or recognition of the best practices.

The Managed Care Ethics Consortium is comprised of CEOs and medical executives of several managed care plans. Over a one-year period members of this group read literature, reviewed research, invited scholars, and studied policies to arrive at a pragmatic approach to the design of ethical incentives. Participants observed that incentives in every type of health care delivery system influence physician behavior. Much has been written about fee-for-service financial incentives resulting in over treatment, rationing based on the ability to pay, and limited provider accountability. However, consortium members decided to leave discussion of fee-or-service financial incentives to others and to focus exclusively on managed care incentives.

We concluded that poorly designed managed care incentive systems can encourage under treatment and this possibility has fueled much of the public concern about managed care. In addition, we became convinced that “good ethics is good business.” Ethical incentive systems:

- Give industry leaders a way to manage this issue internally without regulatory intervention.
- Create good public relations and market differentiation.
- Help keep costs down by appropriately lowering utilization.
- Assist in recruitment and retention of quality providers.

Simple cookbook approaches will not suffice; the issues are too complex. Therefore, our approach is an intentionally broad process grounded in ethical principles, which allows each plan to design a system to fit its needs.

Ethical Discussion

We discussed the ethical principles of autonomy, beneficence, nonmaleficence (not harming), and justice. Through long discussion we recognized that we were shifting the focus in ethical conversations from autonomy to justice. In the managed care context, one could argue that justice simply means fulfilling contractual obligations to the members without using unnecessary resources. However,
many people in the bioethics community and members of this Consortium believe that the nature of health care makes such a definition inadequate. A different and more complex understanding of justice requires that people be treated with respect and compassion. To treat people justly means considering at least the following factors:

- individual needs,
- potential for benefit,
- availability of resources, and the
- total needs of the group.

In addition, we discussed some of the traditional virtues in medicine such as compassion, fidelity and promise keeping, limiting self-interest, and intellectual honesty. From a lengthy deliberation on these fundamentals of bioethics, we concluded that to be ethically defensible, incentives ought not be used solely for the purpose of lowering utilization. In fact, to be ethically defensible, incentives must promote the delivery of appropriate care and eliminate unnecessary utilization. We defined “appropriate care” to mean care that is consistent with widely accepted clinical practice, supported by evidence-based data when available, and respectful of the goals and values of the patient.

To promote this paradigm, we developed a set of general principles, a list of duties and obligations for managed care plans and providers, and a set of particular questions to test the ethical acceptability of specific payment systems.

### Guiding Principles for Plans and Physician Managers

- Incentives should encourage adherence to the ethical principle that the physician’s first duty is to the individual patient.
- Physicians also have obligations to the entire membership of each plan in which they participate, and to their colleagues and communities.
- Incentives should focus on promoting optimal health outcomes.
- Incentives should promote stewardship, that is, the least costly appropriate care.
- Incentives should be designed with information from an organized system for gathering physician input.
- Incentives and their purposes should be clearly communicated to providers.
- Incentives should promote provider performance that is clearly identified, achievable, and measurable.
- Measurement of outcomes should include consideration of age, sex, and other relevant population characteristics.
- Incentives should encourage physicians to care for vulnerable populations and people with special needs.
Ethical Duties and Obligations Related to Financial Incentives

The Duties of Managed Care Plans

- Minimize the financial pressures that might encourage providers to make treatment decisions on economic grounds rather than clinical criteria.
- Assess whether a provider’s treatment decisions are withholding appropriate care or promoting unnecessary care and, if so, take corrective action.
- Maintain an accounting system which accurately reflects the economic performance of each provider in order to fairly apply an incentive.
- Involve practicing physicians in the development of financial incentive systems.
- Inform members about provider payment methods and their potential impact on patient care.
- Be responsible stewards of plan resources.

The Obligation of Providers

Consortium members recognize that it is within the purview of physicians to determine their own duties and obligations. However, in determining the duties and obligations related to the rights of plan members (see Ethical Issues in Managed Care: Guidelines for Clinicians and Recommendations to Accrediting Organizations — Midwest Bioethics Center, Kansas City, MO), consortium participants have attempted to articulate corresponding physician duties and obligations.

- Providers should be guided by the traditional virtues of medicine.
- Providers must strive to ensure that their professional integrity is not compromised by incentives.
- Providers must know that their primary ethical obligation is to the individual patient.
- Providers are to be responsible stewards of resources.
- Providers are obligated to address the unethical use of incentives.
- Providers should treat plan members without regard to reducing their own financial exposure or maximizing their financial gain.
- Providers must ensure that members are informed about provider payment methods and their potential impact on patient care.
Discussion Questions
Consortium participants thought it would be useful to develop a simple mechanism for plans to test the ethical acceptability of existing plans or proposed incentive systems. We believe that purpose will be served if a plan answers the following questions about its incentive system.

1. Does the incentive encourage ethical behavior?
2. Did providers have meaningful input into formulating the incentive program?
3. Did plan members have input into the design of incentive programs?
4. Can providers easily understand the incentives?
5. Can providers reasonably achieve the desired outcome of the incentive?
6. Are these incentives related to a desired outcome in addition to lowering utilization?
7. Can desired outcomes be consistently and accurately measured?
8. Are the goals of incentives consistent and do they promote the same behavior?
9. Do these incentives allow for age, sex, populations, and other relevant factors in each particular practice?
10. Do these incentives encourage the provider to keep the interests of the member foremost?
11. Do these incentive systems encourage prevention?
12. Does the incentive system reward providers for adherence to quality initiatives?
13. Has the incentive system been reviewed by your ethics advisory group?

If a “no” answer is given to any of these questions, the plan should review the system and determine if there is an ethical justification for not complying with the principle embodied in the question.

Conclusion
The issues surrounding the use of financial incentives in managed care are controversial. Financial incentives can cause providers to feel that their autonomy is compromised and fuel fears by consumers that they are not getting necessary treatment. Plans must respond to these concerns by developing incentive systems to preserve the trust on which the physician/patient relationship must be based. This paper outlines a practical way to begin that process.
For a more substantive discussion of this issue, see Ethical Issues in Managed Care: Guidelines for Clinicians and Recommendations for Accrediting Organizations.

©Copyright 1997, by the Center for Practical Bioethics, formerly Midwest Bioethics Center. All Rights Reserved. For additional copies, contact

Center for Practical Bioethics
Harzfeld Building
1111 Main Street, Suite 500
Kansas City, Missouri 64105-2116
816 221-1100
816 221-2002, fax
bioethic@practicalbioethics.org