



Selling to Seniors: The Need for Accountability and Oversight of Marketing by Medicare Private Plans

February 7, 2008

Statement of
Peter C. Hebertson

Director of Outreach
Salt Lake County Aging Services

Before the
Committee on Finance
U.S. Senate

Chairman Baucus, Ranking Member Grassley, distinguished Committee members, I am Peter Hebertson, Director of the Outreach Information and Referral Programs of Salt Lake County Aging Services, the local Area Agency on Aging. I appreciate the opportunity to be here with you this morning to discuss our experience with Medicare advantage plans and their marketing practices.

Introduction

We became interested in health insurance issues for older adults in the 1970's. So, we were very excited when the Omnibus Budget Reconciliation Act (OBRA) of 1990 was enacted and provided for the State Health Insurance Information Program (SHIIP). We have served as a provider of a SHIIP program in Utah for seventeen (17) years.

The role of the SHIIP program in Salt Lake County is to help people with Medicare understand and make informed decisions about their Medicare benefits. We accomplish this mission by providing various services. These services include outreach and education, Medicare prescription drug plan screenings, Medicare casework, assistance with problem resolution and Medicare fraud prevention. Salt Lake County Aging Services SHIIP program also leads the Salt Lake County Access to Benefits Coalition (Attachment A).

Part of our SHIIP program's strategy has been to develop and maintain working relationships with Medicare beneficiaries, Medicare private insurance companies and other stakeholders. This positioning has enabled our program and staff members to be in a place to identify and

resolve Medicare marketing related issues in our community. Following are some of the challenges that our seniors and staff members experience as they attempt to access and understand their Medicare benefits.

Private Medicare Plan Marketing Problems in Salt Lake County

Utah has been fortunate in comparison to other states when it comes to systematic violations by those companies and individuals marketing the Medicare Advantage Plans. Salt Lake County Aging Services has worked diligently to develop relationships with our Medicare Advantage Plan providers and to report problems and potential violations to them. Frequently, the companies have acted to stop the abusive sales practices with no more action needed on our part. This has been possible because we have been conscientious in establishing and maintaining cooperative relationships. These relationships have been in existence since 2004 and were a strategy to protect people with Medicare and provide accountability for the Medicare Advantage Plans.

All Salt Lake County's Medicare Advantage Plans are encouraged to participate in the Salt Lake County Access to Benefits Coalition. This coalition meets monthly to discuss issues and problems directly related to all aspects of Medicare. Despite these genuine efforts and successes, Salt Lake County's seniors experience numerous aggressive marketing and sales tactics.

Many of the marketing problems that we experience are not illegal but they add to the confusion of all older adults. It is our experience that confused people often make poor choices.

One of the first issues or common complaints is the huge quantities of marketing materials

seniors receive through the mail. We have had seniors come to our office with a stack of mail between 3-4 inches thick asking what they can throw away.

We have had reports of seniors who threw away critical documents because they thought they were marketing materials, or responded to marketing materials because they thought they were official letters. Seniors tell us that they can't differentiate the material from private plans from an official Medicare or Social Security document. This occurs despite the requirement for all marketing material to be approved by Centers for Medicare and Medicaid Services (CMS).

Another common concern reported to our SHIP program is aggressive telemarketing phone calls. Even people who are on the "Do Not Call Registry" are marketed by the private Medicare companies. Many seniors reported that even when they told the marketer "no," they continued to receive follow-up calls.

We also receive complaints from seniors who attended free dinner seminars hosted by Medicare Advantage companies. Seniors have reported to us that they felt pressured into signing applications. Many report they did not understand what was being presented or what they were signing up for. We have also had several seniors who attended multiple dinners and signed up for multiple plans.

Independent agents continue to be one of the major complaints we receive. One of the issues is that the agent does not fully understand the plan they are selling or how that plan interacts with existing coverage. When this occurs the SHIP staff can spend three to four hours helping to correct the problem. We also have received reports from individuals about aggressive agents who would not leave the home without an application being signed. They tell the senior that they will hold the application and not submit it without authorization and submit the

application anyway. Another complaint is the agent will state to the senior that they are a representative from Medicare. The misrepresentation is used to create a false sense of trust.

Salt Lake County Aging Services SHIIP program has found our local Medicare Advantage Providers very responsive to complaints about independent agents. We have had local Medicare Advantage Plans discontinue their agents' ability to sell because of some of the above tactics. However, we would be naïve to think that the Salt Lake County Aging Services SHIIP program hears but a small number of the issues that exist.

Below we have listed two specific examples of the types of complaints and issues that have been reported to our SHIIP program.

Example #1

One of Salt Lake County Aging Services certified State Health Insurance Information Program (SHIIP) counselors was attending her regularly assigned Senior Center. When she entered the building, she was informed that there was a Medicare presentation being held. The SHIIP counselor was approached by one of the presenters. The presenter introduced herself as being a representative for Medicare. The counselor corrected the presenter by saying, "You mean you are an insurance agent who is selling Medicare Advantage Plans and not from Medicare", and the presenter agreed.

During the presentation the presenter made several references that would lead the senior attendees also to believe that she was a representative from Medicare. Again, the SHIIP counselor had to clarify with the presenter that she was an independent insurance agent selling a Medicare Advantage Private Fee-For-Service Plan and not

from Medicare. This misrepresentation is a common marketing tactic used by independent agents to build false trust with the seniors.

Another area of concern during the presentation was when the agent/presenter was comparing the Medicare Private Fee-For-Service (PFFS) plan she was selling with traditional Medicare. All of the comparison information was based on Medicare Part A and B only and did not take into account the possibility of the individual purchasing a Medicare Supplement Plan. This comparison gave the impression of huge savings to the beneficiary who switched to the Medicare PFFS plan. During no part of the presentation did the agent/presenter discuss the possibility of purchasing a supplementary plan to offset the gaps of Medicare Part A and Part B.

When the SHIIP counselor asked the agent/presenter about basic plan details, the agent/presenter was unable to provide accurate answers. Here is an example: The counselor questioned whether or not a physician's visit co-payment would count towards the annual out-of-pocket maximum. The agent/presenter responded, "Nothing counts towards the annual out-of-pocket maximum", instead of indicating physician co-payments would count toward the out-of-pocket maximum. Immediately after the presentation the SHIIP counselor contacted her supervisor. The SHIIP program relayed the information to the Utah State Division of Aging and Adult Services. The SHIIP program also filed an official complaint with the Utah Department of Insurance.

Example #2

A husband and wife, both in their late 80's who live in Salt Lake County, were enrolled in a Medicare PFFS Advantage Plan. They received a telephone call from another Medicare PFFS Advantage Plan wanting to set up an appointment to meet. Initially the

couple declined, but the plan persisted in making numerous phone calls until the couple consented to a home visit. The agent was extremely aggressive and the couple felt pressured to sign up for the new plan.

A few days later the couple knew they had made a bad decision and contacted the new plan requesting that the application be cancelled. The new plan refused to do so and stated the issue must be handled by CMS, forcing the couple to call 1-800-Medicare. During this particular time the wait times at 1-800-Medicare were 25-35 minutes.

1-800-Medicare referred the couple to Salt Lake County Aging Services SHIIP program. By the time the SHIIP counselor received the call, this elderly couple was extremely distressed and frustrated. The SHIIP counselor filed a complaint with CMS and helped the elderly couple switch back to their original Medicare Advantage Plan. Despite these changes, the problematic Medicare Advantage Plan has continued to call and badger this couple.

Conclusions

Salt Lake County Aging Services SHIIP Program staff has spent a considerable amount of time thinking about and discussing possible solutions to marketing abuses of the Medicare Advantage Plans with our Access to Benefits Coalition members.

We understand and support the many different Medicare Advantage options available to seniors. We have had great success helping people find cost effective plans when all plans are impartially explained to the individual and the decision is based on their current health care and financial needs.

A significant problem remains in how the Medicare private companies market and pay commissions to agents.

CMS currently approves all Medicare Advantage Plan marketing materials. More oversight of the quantity of materials and tag lines that might lead individuals into thinking the information is official Medicare correspondence would be helpful.

In conversations with the local Medicare private insurance companies, five major companies have expressed that one of the key problems is how agents are reimbursed their commission.

They have reported that as long as different companies pay different commission rates to agents, those agents may lack the incentive to sell plan enrollment based on what is best for the senior.

Policy Implications

We value the diversity of options available in the Medicare Advantage Plans. However if an individual is not informed about options, they will not be able to take full advantage of the benefits that Congress have provided.

We need a system that rewards agents and brokers for selling a plan that best meets the health and financial needs of the senior, rather than rewarding agents and brokers for selling a specific company's plan. This could address many of the aggressive marketing strategies that currently frustrate and confuse seniors and may cause poor choice in access to health care and increased cost.

Salt Lake County Aging Services SHIP program will continue to strive to ensure that individuals with Medicare understand all their available options. We will continue to do this through direct conversations with seniors, relationships with private Medicare Advantage Plans, CMS and other stakeholders.

Thank you for this opportunity to share our experiences with you. Sharing ground level information to you from the seniors who are experiencing these issues will hopefully be able to help the committee enhance the Medicare services and the individual's opportunity to take the best advantage of this important program. Salt Lake County Aging Services stands willing to serve as a resource to the Senate Finance Committee in the future. Please do not hesitate to contact us if we can be of assistance.

**SALT LAKE COUNTY AGING SERVICES
ACCES TO BENEFITS COALITION**

AARP – UTAH CHAPTER
CATHOLIC COMMUNITY SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
CONSTITUENT SERVICES, OFFICE OF CONGRESSMAN MATHESON
HEALTH INSIGHT
HUMANA
MOLINA
MULTIETHNIC HOUSING
REGENCE BLUE CROSS BLUE SHIELD OF UTAH
RX AMERICA
SALT LAKE COMMUNITY ACTION PROGRAM
SALT LAKE COUNTY AGING SERVICES
SIERRA LIFE AND HEALTH INSURANCE
SMITH'S FOOD AND DRUG
STATE OF UTAH DIVISION OF AGING AND ADULT SERVICES
STATE OF UTAH DIVISION OF HEALTH CARE FINANCING
STATE OF UTAH OFFICE OF ETHNIC AFFAIRS
STATE OF UTAH REHABILITATION SERVICES
STATE OF UTAH SERVICES FOR PEOPLE WITH DISABILITIES
UNITED HEALTH CARE
UNITED STATES SOCIAL SECURITY ADMINISTRATION
UNIVERSITY OF UTAH, COLLEGE OF SOCIAL WORK
UNIVERSITY OF UTAH, HEALTH SCIENCES CENTER, PHARMACY
UTAH FOOD BANK 211 SERVICES
UTAH LEGAL SERVICES, SENIOR MEDICARE PATROL
UTAH NON-PROFIT HOUSING
UTAH STATE DEPARTMENT OF HEALTH
UTAH STATE DEPARTMENT OF INSURANCE
VALLEY MENTAL HEALTH