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Senators Investigate Hospital Purchasing

By MARY WILLIAMS WALSH

Lawmakers eager to broaden health care coverage while holding down costs are examining the institutional market for medical supplies, a largely unseen $60 billion-a-year realm where things like bedpans and heart implants change hands.

Senators from committees like finance, judiciary and aging are investigating the practices of companies that represent big networks of hospitals, nursing homes and other institutions. These group purchasing organizations select “preferred” manufacturers and negotiate the prices of medical products, which are a closely held secret. They then use a variety of carrots and sticks to make sure their hospitals buy those brands at the contracted price.

The senators are concerned that these groups’ practices may be inflating health costs at taxpayer expense. Much of the cost is borne by the government, as it reimburses hospital expenses through the Medicare program.

On Wednesday, the senators sent letters to the seven biggest group purchasing organizations, known as G.P.O.’s, demanding detailed information about their business practices, including how they are paid, what services they perform besides picking brands and negotiating prices, and how their revenues are affected when an affiliated hospital buys supplies on its own instead of using the group contract.

The senators also asked for copies of contracts, something not normally made public.

For years, there have been complaints that the buying process is opaque and unfair. The purchasing companies’ operating expenses are usually paid by the manufacturers sitting across the bargaining table, leaving them open to accusations of steering huge blocks of institutional business to the vendors willing to pay the most.

The group purchasing organizations deny this, saying they award contracts on the merits and help hospitals get good deals, saving the government money.

The savings are hard to verify, because the market's opacity makes price comparisons nearly impossible.

Normally, Medicare's law against kickbacks would bar vendors from paying the companies that award them contracts, but Congress granted the industry a special "safe harbor" many years ago, in the belief that volume purchasing saved money. The senators seem to want to test that belief and perhaps change or abolish the safe harbor, something that would turn the industry on its head.

"These organizations play a major role in health care and affect federal health care program spending," they said in a statement Wednesday. "It's essential that we understand how these entities operate."

The senators signing the letter were Herb Kohl, chairman of both the Special Committee on Aging and the Judiciary Committee's antitrust subcommittee; Charles E. Grassley of Iowa, the senior Republican on the Finance Committee and a member of the antitrust subcommittee; and Bill Nelson, a Florida Democrat on the Finance and Aging committees.

Only one of the companies, MedAssets, of Alpharetta, Ga., is publicly traded. The others are Premier, of Charlotte, N.C.; Novation, of Irving, Tex.; Consorta, of Schaumberg, Ill.; Broadlane, of Dallas; Amerinet, of St. Louis; and the HealthTrust Purchasing Group, of Brentwood, Tenn. All seven companies declined to comment on the senators' action, referring inquiries to a trade association, the Health Industry Group Purchasing Association.

Curtis Rooney, the association's president, said that he and the companies had met with the senators' staff members this summer and explained their business activities in full. He said he was surprised that the senators still wanted more data.

"This is probably the most transparent industry in the whole health care system," he said.

Some of the group purchasing organizations have been in the spotlight before. Premier and Novation were the subject of articles in The New York Times in 2002, which prompted Congressional hearings and the issuance of an industry code of conduct. But Senate aides said they were still hearing reports of possible abuse, which intensified this summer as the Obama administration pushed for health care reform.

Scott Gammons, vice president of Adroit Medical Systems, is one of those people calling for legislation to stop vendors from paying the contracting firms' expenses, which he sees as a conflict of interest. Adroit, a family owned company in Loudon, Tenn., makes specialty heating pads and blankets that are used in infant incubators and surgical suites. Mr. Gammons has been struggling to break into the hospital market. He says contracts are often rewarded to inferior brands that can fail to conduct heat, putting patients at risk.

"The G.P.O.'s don't want to know about therapeutic value or patient safety," he said. "They want to know, what is the highest price that I can charge for my product, and what are my company's 'reimbursement strategies.' How do you get the most out of insurance, including Medicare."

The group purchasing organizations have argued that if they were no longer paid by the medical products industry, they would not be able to go on offering valuable programs to hospitals, beyond their basic contracting services.

But the argument may have backfired, because now the senators are asking the group purchasing organizations to document all the noncontracting services they provide, who pays for them, and how.

The senators' line of questioning suggests they want to know whether vendors are using the contracting companies to quietly channel money and in-kind donations to hospitals, building brand loyalty at taxpayer expense.

Any such contributions could be problematic if the hospitals failed to deduct them when submitting their cost reports to Medicare. In that case, the hospitals could get too much money from Medicare.

A whistle-blower lawsuit offers an example of how this might happen. The plaintiff, Cynthia Fitzgerald, is a former employee of Novation. In her complaint, she says that she sought money from companies that were competing for a contract for intravenous catheters, then awarded the contract to the one that gave her a check for $100,000, Becton Dickinson.

Ms. Fitzgerald said that she never told the companies they could win the contract by making a big payment — the message was implicit. She said Novation was collecting donations then to finance an internal communication system for its hospitals, but it channeled many other cash and in-kind payments to the hospitals for other purposes.

In her lawsuit, she argues that the hospitals would not be able to accurately account for these payments when reporting their supply costs to the government. That meant they would claim bigger reimbursements from Medicare than they were entitled to.

Novation and Becton Dickinson are both fighting the lawsuit, filed in United States District Court for the northern district of Texas, in Dallas. Becton Dickinson calls Ms. Fitzgerald's accusations "attenuated and speculative." Novation, which fired Ms. Fitzgerald after she questioned its practices, says she did not work there long enough to understand how its business worked, much less build a credible case of Medicare fraud.