POLICY & PRACTICE

Salt Wars: Revenge of CSPI

First the federal government was sued for taking too seriously data concluding that high salt intake contributes to heart disease. Now it's being sued for not taking those data seriously enough. In the latest suit, filed in the U.S. Court of Appeals for the District of Columbia Circuit, the Center for Science in the Public Interest alleges that the Food and Drug Administration has unreasonably delayed recognizing salt as a food additive and regulating its use in processed foods. "There is no way the FDA can look at the science and say with a straight face that salt is 'generally recognized as safe,' " said Michael Jacobson, of CSPI. The Salt Institute, which sued the Department of Health and Human Services for failing to release the data supporting its recommendation of cutting down on salt intake as a way to avoid heart attacks and strokes, took a dim view of CSPI's action. "Mr. Jacobson says that diets too high in salt are responsible for 150,000 premature deaths each year in the United States," said institute president Richard L. Hanneman. "There is no evidence supporting this claim."

Alzheimer's Bill Introduced

Rep. Christopher Smith (R-N.J.) has introduced H.R. 1262, the Ronald Reagan Alzheimer's Breakthrough Act. The measure would double funding for Alzheimer's disease research at the National Institutes of Health from $700 million to $1.4 billion and increase funding for gerontology training, patient education, and caregiver support programs. The act "offers a comprehensive approach for treating current Alzheimer's patients and researching potential cures to reduce the number of those who will struggle with this disease in the future," Rep. Smith said in a statement. "We will be working overtime to secure passage of this critical legislation." The House measure is cosponsored by Rep. Ed Markey (D-Mass.) and Rep. Mike Burgess (R-Tex.); a companion bill was introduced in the Senate by Sen. Kit Bond (R-Mo.) and Sen. Barbara Mikulski (D-Md.).

CMS on Diabetic Neuropathy

The Centers for Medicare and Medicaid Services has issued instructions to carriers explaining how to reimburse physicians for diagnosing and treating diabetic neuropathy. The instructions note that Medicare covers evaluations of the feet "no more often than every six months for individuals with a documented diagnosis of diabetic sensory neuropathy and loss of protective sensation (LOPS), as long as the beneficiary has not seen a foot care specialist for some other reason in the interim." LOPS should be diagnosed with a 5.07 monofilament using established guidelines. The instructions also note that "once a beneficiary's condition has progressed to the point where routine foot care becomes a covered service, payment will no longer be made for LOPS evaluation and management services." The instructions can be viewed online at http://www.cms.hhs.gov/manuals/pm_trans/R498CP.pdf.

Autism Education Costs High

The cost of educating children with autism is almost triple that of educating children who receive no special education services, according to a report from the Government Accountability Office. The GAO reviewed data from the Special Education Expenditure Project funded by the Department of Education and found that the average cost of educating a child with autism was $18,000 in the 1999-2000 school year. That estimate "was among the highest per-pupil expenditures for school-age children receiving special education services in public schools," the report stated. It also noted that the number of children with autism who were given special education services has increased by more than 500% in the last decade.

Pay-for-Performance Principles

Any "pay-for-performance" program should offer voluntary physician participation and foster the relationship between physician and patient, the American Medical Association asserted in a new set of principles for such programs. Such a program should also use accurate data and fair reporting, provide program incentives, and ensure quality of care, the AMA stated. If done improperly, "some so-called pay-for-performance programs are a lose-lose proposition for patients and their physicians with the only benefit accruing to health insurers," AMA Secretary John H. Armstrong, M.D., said in a statement. Both private and public sector organizations have started offering incentive payments to physicians based on an appraisal of their performance. Before taking on such reforms, however, Congress should try to fix Medicare's flawed payment formula, according to recent AMA testimony.

Conflict-of-Interest Rules Targeted

People with direct financial conflicts of interest should not be put on Food and Drug Administration advisory committees, a coalition of public interest groups has recommended. Financial conflicts undermine "the public's faith in the fairness and credibility of the panel's work," the Center for Science in the Public Interest, the National Women's Health Network, the U.S. Cochrane Center Consumer Coalition, and eight other groups said in a letter to Acting FDA Commissioner Lester Crawford, D.V.M., Ph.D. The groups cited the FDA advisory committee that recently reviewed the safety of cyclooxygenase-2 inhibitors, noting that 10 of the 32 members had direct financial conflicts. In addition to prohibiting scientists, physicians, and clinicians with relevant conflicts of interest from serving on advisory committees, the groups also recommended that people with any industry ties make up no more than half of a committee.

—Joyce Frieden

Class Action Is Likely to Help MDs Recoup Income

BY ALICIA AULT
Contributing Writer

Physicians frustrated with seemingly arbitrarily denied claims will have their day in court later this year with at least six insurers, thanks to a recent Supreme Court decision to deny the plans' appeal of a class action suit.

But settlements related to improper denials by Cigna and Aetna are likely to provide vindication even sooner.

The legal actions affect almost every practicing physician in the United States—approximately 900,000 doctors.

The settlement set up a process under which three external independent review boards are monitoring compliance of Cigna and Aetna.

A series of suits, originally filed by several state and county medical societies, was consolidated in a U.S. District Court in Florida in 2000 and certified as a class action in 2002. The filing named Aetna, Anthem, Cigna, Coventry, HealthNet, Humana, PacifiCare, Prudential, UnitedHealthcare, and WellPoint as defendants.

The class action lawsuits alleged that the plans violated the Racketeer Influenced and Corrupt Organizations Act (RICO) by engaging in fraud and extortion in a common scheme to wrongfully deny payment to doctors.

Aetna and Cigna broke off and entered into negotiations, an enormous process involving more than 100 attorneys, 19 state and county medical societies, the American Medical Association, and the plans' CEOs.

The two insurers settled in 2003, but the other parties have vowed to continue to fight, and are scheduled for trial in September in the Florida courtroom of Judge Federico Moreno.

Another suit, with 60 Blue Cross and Blue Shield plans as defendants, is also before Judge Moreno.

Still, those other insurers could possibly follow in Aetna and Cigna's footsteps.

The Aetna claims deadline has passed, and physicians had until Feb. 18 to make a claim against Cigna, with two options for recouping losses.

One was to make a general claim on Cigna's $30 million settlement pot, which will be divided equally among all who make such a claim.

Or, physicians could reconstruct claims and seek repayment according to either a general amount per CPT code or a more specific amount based on a complete medical record.

Physicians who did not meet that deadline will still reap the benefits of the settlement, according to David McKenzie, reimbursement director at the American College of Emergency Physicians, who explained the various options to physicians at a recent ACEP meeting in Orlando, Fla.

Aetna agreed to set aside $300 million for prospective relief, and Cigna agreed to a $400 million figure. These amounts represent what is likely to be paid to physicians now that the two insurers have also agreed to a number of changes in business practices.

For instance, both Cigna and Aetna have agreed to pay for vaccines and their administration.

And the insurers will no longer automatically downcode evaluation and management codes, and will separately identify and pay modifier –25, which allows physicians to bill for evaluation and management service on the same day as a procedure. Other coding and editing changes will also lead to future income for physicians.

Both insurers agreed to disclose physician fee schedules and to change the schedules only once a year. Aetna's schedules were posted on a Web site, and Cigna agreed initially to post schedules via e-mail.

Both also said they would make a preadjudication tool available so physicians could determine in advance what they might be paid for a claim.

Clean claims have to be paid within 15 days, whether submitted electronically or on paper. Aetna agreed to pay interest at the lesser rate of prime or 8%, and Cigna agreed to 6%.

A dispute resolution process was established to ensure that Cigna and Aetna are complying with the settlement agreements—in fact, three external independent review boards are monitoring the situation.

Another result of the settlement: Cigna and Aetna agreed to endow two nonprofit foundations devoted to improving medical practice.

The year-old foundations are currently seeking grant proposals. Aetna put $20 million into the Physicians' Foundation for Health Systems Excellence, and Cigna contributed $15 million to the Physicians' Foundation for Health Systems Innovations.

For more on the foundations, go to www.physiciansfoundation.org. ■

INDEX OF ADVERTISERS

Forest Pharmaceuticals, Inc.	
Combunox	21-24
Janssen Pharmaceutica Products, L.P.	
Reminyl	17-18
Eli Lilly and Company	
Cymbalta	3-9
Ortho-McNeil Pharmaceutical, Inc.	
Topamax	27-31
Pfizer Inc.	
Rebif	35-36
Sepracor Inc.	
Lunesta	18a-18d
UCB Pharma, Inc.	
Keppra	13-14