AIM RESPONSE TO MILLIMAN, INC. PAPER ON OUTPATIENT TRENDS

The Milliman paper misleads and questions the intelligence of readers by using an apples-to-oranges methodology and demonstrating a remarkable lack of knowledge about self-referral and published research on the topic. This paper reflects the lengths self-referring physicians will go to profit off the Medicare program and its beneficiaries at a cost of $3.5 billion over the next 10 years.

MILLIMAN STUDY: TRUE OR FALSE?

• “This study does not distinguish between services that were self-referred and those that were referred by others.”
  o TRUE On the first page, the authors admit that the paper does not study self-referral. It is impossible to properly analyze the impact of self-referral without examining the specific impact of physician ownership on utilization and spending. Despite this glaring flaw, the paper makes the giant leap of making specific self-referral policy recommendations based on its generic findings.

• “Self-referral restrictions on these services will not produce significant savings.”
  o FALSE The Congressional Budget Office, relying on peer-reviewed published literature and information provided by the independent Government Accountability Office, reported that closing the self-referral loophole will save Medicare $3.5 Billion/10 years. Likewise, the Office of Management and Budget, Government Accountability Office, Bipartisan Policy Center, Simpson-Bowles Moment of Truth Project, AARP and others all agree that closing the self-referral loophole will save billions of dollars.

• “The data simply do not support the argument that self-referral encourages inappropriate utilization.”
  o FALSE The Medicare 5% sample of utilization and spending data are wholly inadequate to capture the specific trends associated with self-referral. Only by comparing self-referral practices and non-self-referring peers, as was done by GAO and other research published in leading peer-reviewed journals, can one properly identify and isolate the impact of self-referral’s conflict of interest. The paper’s failure to cite, acknowledge and directly address the mountain of evidence contrary to its findings published in both leading peer-reviewed journals (Health Affairs, New England Journal of Medicine, Journal of the American Medical Association, etc.), as well as leading investigative mainstream media outlets (Wall Street Journal, Bloomberg Businessweek, Washington Post, etc.), seriously calls into question the methodology and validity of the paper’s findings and policy recommendations.

• “Spending (and utilization) growth overall is declining or has gone negative for most of these services.”
  o TRUE. However, spending growth and overall utilization would decline at an even faster rate by closing the self-referral loophole, according to the published literature on this topic. Despite the general downward trend, GAO consistently showed that self-referring physicians’ utilization rate increased significantly, in contrast to the national trends documented in this paper. In other words, the national trends would have declined faster without the counter effects of relatively small group of self-referring physicians. With respect to advanced diagnostic imaging, this analysis also fails to look at the interaction of other previously
enacted legislation that may affect spending and utilization trends. In fact, enactment of policies through the Deficit Reduction Act of 2006 which cap the technical component of the Medicare Physician Fee Schedule to the Hospital Outpatient Prospective Payment System (OPPS) rate for the same procedure when the former is higher resulted in dramatic reductions in advanced imaging volume and spending. Inexplicably, this policy reality is ignored within the AMA-Milliman analysis.

- “Much of that (IMRT) utilization is provided through free-standing centers that rely on referrals from unrelated physician centers.”
  - **FALSE** Freestanding centers rely on referrals from unrelated physician practices, unless they self-refer, as more than 50 centers nationwide do. While there are relatively fewer self-referral centers and they compose a smaller share of overall utilization, these centers are responsible for remarkably high utilization compared to non-self-referring peers, according to GAO and the peer-reviewed literature. Rather than refute this evidence, the statement above merely dismisses self-referral’s existence, demonstrating a naïve or flawed understanding of self-referral.

- “Physician offices provide a more significant share of IMRT services, but that share dropped from 59 percent in 2008 to 53 percent in 2012.”
  - **TRUE** Indeed, the overall share of IMRT services in the physician office has declined slightly. However, the 2013 GAO report found that IMRT utilization among self-referring urology groups increased by 456 percent, while IMRT utilization among non-self-referrers decreased by five percent. Taken together, the overall picture demonstrates that urology groups’ excessive use of IMRT is singlehandedly blocking a more significant decline in overall IMRT utilization.

- “The data simply do not support the argument that self-referral encourages inappropriate utilization or increased Medicare spending.”
  - **True.** The Milliman study, by its own admission, “does not distinguish between services that were self-referred and those that were referred by others.” Therefore, it is illogical to apply or draw any conclusions from the data in the Milliman study as a measurement of overutilization and Medicare spending in self-referral arrangements for the four services. Furthermore, specific to pathology, the Milliman study examines all laboratory services, instead of self-referred anatomic pathology services that are the subject of scrutiny by GAO and legislators.
    
    However, the GAO report and several other academic studies which distinguished between self-referring and non-self-referring arrangements, found a significant increase in overutilization and costs to the Medicare program in self-referring arrangements for these four services. Moreover, the studies expose the potential risk to patients in self-referring arrangements for these four services.
    
    For example, GAO stated “a major factor driving the increase in anatomic pathology referrals,” was financial incentives for self-referring providers who made an estimated 918,000 more referrals for AP services than if they were not self referring in 2010. “This increase raises concerns, in part because biopsy procedures, although generally safe, can result in serious complications for Medicare beneficiaries.” GAO also found that providers—known as switchers—who did not self-refer in 2007, but began to self-refer in 2010, increased the number of AP referrals by as much as 58%.

We encourage policymakers to rely on published research by respected institutions, such as the GAO, as well as research published in the world’s leading peer-reviewed medical journals.

_The Alliance for Integrity in Medicare (AIM) is a broad coalition of medical societies committed to ending the practice of inappropriate physician self-referral and focused on improving patient care and preserving valuable Medicare resources. AIM partners include the American Clinical Laboratory Association (ACLA), the American College of Radiology (ACR), the American Physical Therapy Association (APTA), the American Society for Clinical Pathology (ASCP), the American Society for Radiation Oncology (ASTRO), the Association for Quality Imaging (AQI), the College of American Pathologists (CAP) and the Radiology Business Management Association (RBMA). More information is available at www.aimcoalition.com._