

Through the Looking Glass

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Have any of you really read the reasons why we get denials from the various insurance plans we have to deal with? It's truly an exercise in surrealistic madness. The logic of their decisions escapes all reason, irrespective of whatever viewpoint one adopts to interpret their decisions. It's as if Josef K was being tried according to rules laid down by Lewis Carroll: "The Jabberwocky Trial," as it were.

I mean, would someone please tell me the rationale behind this verbatim denial: "The patient's Part D Medicare plan will only pay for 31 days of medication every 90 days." Huh? That sounds like something Alice might have heard from Tweedle-Dum and Tweedle-Dee. It must have some sort of twisted logic, but I'll be damned if I can figure out what that logic is. All I can see is a greed driven cruelty that is made all the crueler for giving a just little bit of the drug before pulling the rug out. What is the poor patient to do on the other 59 days? Get sick? Not pay his rent so he can afford his drug? Die? Emigrate to Canada? There is a sick intelligence behind such thinking.

I'm constantly amazed by the Kafkaesque interactions between the insurance companies and the entities that "regulate them." Here's a graphic example:

A number of years ago the state legislature passed AB 347, The Gallegos Act. This act states that if a patient is stable on a particular medication or course of therapy, and if the physician feels that changing the med to meet an insurer's formulary would possibly de-stabilize the patient's health, the insurer must approve the original med. They can raise the co-pay, but they must pay for the drug. This is a state law.

Many of the Medicare Advantage (Part D) plans routinely ignore this law, despite my providing documentation that the patient has been doing well on the medication for an extended period. They still deny the drug, even though I'm usually attempting to keep the patient on a generic drug, just not *their* generic drug, and I've sent them a copy of the law. (I keep a stack of copies of the law in a drawer and I send one in with every appeal.)

Back in 2009, I wrote that the Part D plans were practicing medicine without a license in the State of California, and, therefore, they should face criminal prosecution. I also wrote that they were also guilty of medical negligence since they violated the second precept of medicine: you need to at least talk to the patient before prescribing or denying medication. See I can be just as Lewis Carroll-like as they are. (Before you ask, the first precept is *primum no nocere*--first, do no harm.)

So, in an effort to put my money where my mouth is, I have attempted to pursue both civil and criminal actions against several of these Medicare D plans. I've sent my complaints to The Department of Managed Care who treats it as a hot potato as they quickly pass it over to the State Attorney General's Office who then punts it back to the Department of Managed Care and the Insurance Commissioner, each one writing me to tell me it's not their particular problem; it's the other guy's bailiwick, and I'm running as fast as I can, just to stay in place.

I've been in touch with CMA legal who informs me that there doesn't seem to be much one can do, since Medicare Advantage is a federal program, and AB 347 only applies to private and state agencies. In other words, a federal program operating out of state is above the law, although the federal government has given the states the power to regulate how medicine is practiced within their own borders. Go figure.

There are, literally, hundreds of more examples of the insane hoops we're forced to jump through, just so we can do what is right. And the bureaucratic language: "Twas brillig, and the slithy toves/Did gyre and gimble in the wabe:/ So in order to help your patient, you must be on your head, insane"

The rules we're forced to play by are so bizarre and loaded that, if it weren't for whatever commitment one may have to patient care, any sane person would just throw up her hands and walk away in bewildered disgust.

When we practice medicine today we step through the looking glass and take a seat at the Mad Hatter's Tea Party, Gregor Samsa sitting next to the doormouse in accusatory silence.

So good luck trying to change the world.

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