

To: Third Way
From: Actuarial Research Corporation
Subject: Final Scoring Memo: End of Life Policy
Date: March 17, 2015

Policy Background

Background information on the policy issue is described below and comes from Avalere's work.¹

The proposed policy would provide one-time incentive payment to a Medicare beneficiary, enrolled in either fee for service (FFS) or Medicare Advantage (MA), to create an advance directive (AD) starting in FY 2015. Under the policy, beneficiaries would receive \$75 for a creation of an electronic AD and \$50 for a creation of a manual AD. No payments would be made for future updates to ADs. The higher incentive payment for the electronic AD is meant to improve portability and accessibility of the document. The policy would also create a separate Healthcare Common Procedure Coding System (HCPCS) billing code and reimbursement under Part B FFS schedule for EOL care counseling visit. The end of life (EOL) counseling visit will be voluntary and available to a FFS beneficiary every four years.

This analysis looks at extending the end of life policy to Medicaid, private health insurance (PHI)² and out-of-pocket (OOP). Modeling specifications for extending Medicare policies are from Third Way.³

States would be required to adopt the same policy as Medicare's.

The estimates of projected savings to Medicare, Medicaid, PHI and OOP shown in Table 1 are based off of Avalere's estimates of the total change in federal spending due to Medicare end of life policy⁴ and assumed distribution of savings consistent with the federal and state share of Medicare and Medicaid spending on dual eligibles and Medicare spending on nonduals. We also estimated additional savings to Medicaid in expanding the end of life policy to Medicaid recipients under age 65 who are reported as eligible due to a disability. Projected PHI savings are based off of an assumed percentage of Medicare savings, and projected OOP savings are based off of an estimate of how much OOP is associated with each dollar of payment through Medicare, Medicaid and PHI. In summary, projected Medicare savings total \$11.9 billion, projected Medicaid savings total \$5.1 billion, projected PHI savings total \$1.2 billion and projected OOP savings total \$0.7 billion over the ten-year period (2015-2024).

¹ Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

² Private health insurance includes Medigap supplementation.

³ D. Kendall email communication "Re: Thoughts on specs for Bundling option," November 5, 2014. Attachment: "ARC-Extending Third Way's Medicare Policies to under-65.doc."

⁴ Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

Are based off of an estimate of how much OOP is associated with each dollar of payment through Medicare, Medicaid and PHI

Estimation Process and Results

Medicare and Medicaid

Our savings estimates consist of projecting four (4) components: Medicare savings on nonduals, Medicare savings on duals, Medicaid savings on duals, and Medicaid savings on nondual, disabled beneficiaries.

To estimate the first three components, we use Avalere's estimates of the change in federal spending due to Medicare end of life policy⁵ and assumed distribution of savings consistent with the federal and state share of Medicare and Medicaid spending on dual eligibles.

Using the change in federal spending due to Medicare end of life policy, we estimated the portion of Medicare nondual, Medicare dual and federal Medicaid dual savings consistent with the following assumptions. In 2008, dual eligibles comprised 31% of Medicare spending and 39% of Medicaid spending.⁶ These splits were applied to 2012 total Medicare and Medicaid spending⁷ to estimate Medicare spending on duals and nonduals and Medicaid spending on dual eligibles in 2012. We estimated that in 2012, Medicare spent approximately \$178 billion on duals, \$396 billion on nonduals, and Medicaid spent \$162 billion on duals.

We estimated the portion of Medicaid spending on duals by the federal government and by states using the average Federal Medical Assistance Percentage (FMAP) for states in FY2015 (59%).⁸ Federal spending includes all of Medicare (duals + nonduals), plus the federal portion of Medicaid spending on duals. Of the total federal spending (\$670 billion), Medicare's share on duals (\$178 billion) is 26.6% and on nonduals (\$396 billion) is 59.1%. Medicaid's share of spending on duals (\$96 billion) is 14.3%. We apply these percentages to the total change in federal spending due to Medicare end of life policy⁹ to estimate the federal savings to Medicare and the savings to Medicaid. Federal savings to Medicare (nonduals) total \$8.2 billion and federal savings to Medicare (duals) total \$3.7 billion. Federal savings to Medicaid (duals) total \$2 billion over the ten-year period (2015-2024). Projected state savings to Medicaid (duals) are estimated using the complement of the FMAP referenced above and total \$0.9 billion over the ten-year period (2015-2024).

The process for estimating the fourth component of the projected savings estimate (Medicaid savings on nondual, disabled beneficiaries) is primarily based off of the assumptions used in Avalere's memo for estimating Medicare savings.¹⁰

We calculated the Medicare population affected by the end of life policy consistent with assumptions provided in the Avalere memo. We then estimated a savings per beneficiary with an AD using our estimate of Medicare's

⁵ Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

⁶ Medicare's role for dual eligible beneficiaries. April 2012. Accessed: <http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8138-02.pdf>

⁷ Total Medicaid Spending, 2012 Accessed: <http://kff.org/medicaid/state-indicator/total-medicaid-spending/>; Total Medicare Spending, 2012 Accessed: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2013.pdf>

⁸ Average FMAP percentage for total US (51). Accessed: <http://kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/>

⁹ Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

¹⁰ Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

portion of total federal savings calculated by Avalere. This was the basis for the per capita savings used for the Medicaid savings on nonduals described in more detail below.

Total Medicaid enrollment for the time period examined is derived from CMS projections. The portion of the Medicaid population affected by this policy includes people under age 65 who are reported as eligible due to a disability.¹¹ The assumptions used to estimate the number of beneficiaries with no AD and the number of beneficiaries who will create an AD based on the end of life policy follow the reported assumptions in the Avalere memo.¹² We assume that 54% of beneficiaries each year do not have an AD in place. Beneficiaries create ADs at a rate of 50% in the first year, and this assumption increases to 90% by year 10. We apply the illustrative savings per beneficiary estimated for the Medicare population described above, to the Medicaid population of interest. Medicaid savings for nondual, disabled beneficiaries total \$2.2 billion over the ten-year period (2015-2024), with projected federal savings totaling approximately \$1.3 billion and projected state savings totaling \$0.9 billion.

PHI and OOP

To estimate the effect of the end of life policy on PHI spending, we assumed that PHI savings is approximately 10% of Medicare savings. To estimate the effect of the end of life policy on OOP spending, we used an estimate of how much OOP is associated with each dollar of payment through Medicare, Medicaid and PHI. The assumed distribution of OOP savings is as follows: 5% of total Medicare savings and 2% of total Medicaid savings. Using these assumptions, projected PHI savings total \$1.2 billion and projected OOP savings total \$0.7 billion over ten years.

¹¹ Distribution of Medicaid Enrollees by Enrollment Group. FY2011. Accessed: <http://kff.org/medicaid/state-indicator/distribution-of-medicaid-enrollees-by-enrollment-group/#>

¹² Avalere Health. (October 1, 2014). *Estimated Federal Impact of Medicare End-of-Life Policy*.

Final Estimates for Third Way

Estimated change in spending due to End of Life Policy

ARC

Table 1: Estimated change in spending due to End of Life Policy by payer (\$ in billions, by fiscal year)

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015-2024
Medicare	-0.3	-0.8	-1.0	-1.2	-1.1	-1.3	-1.5	-1.6	-1.5	-1.6	-11.4
Medicaid-federal	-0.1	-0.2	-0.3	-0.3	-0.3	-0.4	-0.4	-0.4	-0.4	-0.4	-3.1
total federal	-0.4	-1.0	-1.3	-1.5	-1.4	-1.6	-1.9	-2.1	-1.8	-2.1	-15.5
Medicaid-state	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-1.6
Private health insurance	0.0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.1	-0.2	-1.0
Out-of-pocket spending	0.0	0.0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.7
total-Medicare, Medicaid, PHI + OOP	-0.6	-1.2	-1.6	-1.9	-1.8	-2.0	-2.3	-2.6	-2.3	-2.5	-18.3