

COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY 12335

In short, HEW has proposed a program of unexplored cost to realize undocumented savings, in disregard of the rights of people who would have to pay for and live under the proposal. If this program is justifiable, its costs must be explained and they must be defensible. Until those figures are available for examination, no credence can be given to the estimates presented.

Inconsistency with Medicare-Medicaid Statutes

Throughout the Medicare-Medicaid statutes, Congress repeatedly expressed its concern that beneficiaries under the programs should not be forced to accept inferior services or supplies simply because funding is provided by the Government. This concern is carried over directly into those provisions dealing with economy and cost limitations. While the Secretary of HEW is authorized to establish reimbursement limits under Medicare and Medicaid, the law cautions that this should be done only when the services or supplies for which such limits are to be established "do not generally vary significantly in quality from one supplier to another".

Under present circumstances, it seems clear that implementation of the MAC proposal could jeopardize the quality of drug therapy available to federal health care beneficiaries, contrary to express congressional intent.

Other provisions in the Medicare-Medicaid statutes guarantee patients freedom of choice and preclude federal interference with the practice of medicine or pharmacy. But, as long as the possibility of significant quality differences remains, limiting reimbursement to the level of a potentially inferior brand of a drug product would improperly restrict this freedom to practice. Further, the very limited physician certification