How Medicare ACOs restrict care and offer dangerous incentives

***"You pay into Medicare every two weeks for your entire working life. That's your wealth. Why are we giving it to corporations?"* – Dr. Ana Malinow**

911. What's your emergency?

America's healthcare system is broken and people are dying.

Welcome to Code WACK!, where we shine a light on America's callous healthcare system, how it hurts us and what we can do about it. I'm your host, Brenda Gazzar.

(music)

This time on **Code WACK!** Why is tying a medical provider's pay to the outcomes of their patients a bad idea? Why else should we be concerned about Accountable Care Organizations and the privatization of traditional Medicare? To find out, we spoke to **Dr. Ana Malinow,** who spent three decades working as a pediatrician with immigrant, refugee and underserved children before retiring as Clinical Professor of Pediatrics from the University of California San Francisco School of Medicine. She's past president of Physicians for a National Health Program and is

currently a lead organizer for **National Single Payer** and **The Movement to End Privatization of Medicare.** This is the second episode in a two-part series with Dr. Malinow.

Q: Welcome back to Code WACK! Dr. Malinow! So last time we spoke about the dangers of Accountable Care Organizations, which are privatizing traditional Medicare, and limiting patients to narrow doctor and hospital networks among other things. They also link a provider's pay to patient outcomes. That sounds reasonable. If a patient improves health wise, then the medical provider gets paid more. So why is this a problem?

Malinow: This is a really good question. How do you define patient outcomes? Right? You know, there are 10,000 CPT codes. Those are the codes that doctors use and providers use in order to bill. There are 10,000 of them. So which ones are you going to measure (of) those outcomes? You can't possibly measure all of them, right? So you're going to pick and choose. You're going to pick an outcome that you can measure first of all, right? So for somebody who has heart disease, you're going to measure their blood pressure rather than their social support system because that's so much more difficult to measure, but it might be just as important to their heart health. So already you're going to measure something which is measurable and you're not going to measure everything because you can't possibly measure everything and so what's going to happen to the things you're not measuring?

Well, you know, what doctors do is they stop paying attention to the things that are not measured and just pay attention to the things that are measured. So they teach to the test and so that's the problem with having these providers' pay being tied to performance measures, is that now doctors are really going to be paying a lot of attention to the things that they're going to be reimbursed for, and they're going to stop paying attention to the things they're not being reimbursed for. Furthermore, as you know, if you're a patient, you just don't see one doctor a year. You know, you might go to your primary care physician once a year, but to your cardiologist 10 times a year, and who's going to get the value, performance

value for that? Is it your primary care doctor or is it your cardiologist that's really taking care of you, <laugh>?

This has been long debated in medicine and we spend I think $40,000 per doctor per year just on measuring quality metrics. It doesn't mean that you are improving those quality outcomes, right? You're just measuring them and that's how much money we're spending every single year. So billions of dollars that just go to measure something that might or might not have anything to do with the true outcomes of a person's health. The other problem is that, again, it incentivizes doctors to skimp on care or to deny care or to use the wrong network because they know that their income depends on that. So it compromises doctors.

Q: What about costs? Do Accountable Care Organizations or ACOs reduce costs as intended?

Malinow: Well no. There was a recent study that was just published in the general of American Medical Association that looked at the Medicare Shared Savings Program, which is sort of the flagship ACO program under traditional Medicare that looked at the almost 500 ACOs, right that are in traditional Medicare that cover about a third of patients on traditional Medicare, and they found that over a nine-year period, they increased Medicare costs by $1.4 billion, up to $1.4 billion. So they're increasing costs, they're not lowering costs and the Congressional Budget Office in September published a bombshell report that nobody paid attention to because what it did is, it looked at the financial outcomes of the Centers for Medicare and Medicaid innovation for the past 10 years. And it looked at the first 49 models that they have run. And they found that instead of saving Medicare money in the first 10 years, they increased Medicare spending by $5.4 billion and are on target to continue increasing costs for Medicare into the next decade.

So ACOs are not saving us money. They are not, they're not saving Medicare money significantly, but they are making money for themselves for sure. They are doing that.

Q: So have you heard any stories from seniors who are onto this and have some concerns about it?

Malinow: So, you know, let me, let me just preface this by saying that I'm a pediatrician, right? <Laugh>, which really puts me at a disadvantage for coming up with patient stories on Medicare. So I don't have any personal stories about that, but I do know that there have been people that have told me that they have been aligned without their knowledge or consent into ACO Reach. They receive a letter in the mail that tells them that their healthcare provider and this new ACO Reach corporation are getting together to improve their care and their coordination and all of that. And then that's that. So it's happening, it's happening to 2.1 million individuals that have been aligned into these ACO Reach programs for sure and they're just getting letters, and I've seen lots and lots of patient letters like that, people that have been sending them to me that this is happening to them.

And I did hear of a story of an individual who is on traditional Medicare, is in an ACO and was able to get all the physical therapy that he wanted to in the past and now because he's part of an ACO, his physical therapy is being restricted. So I know about that. And there are personal stories of individuals in ACOs that are not getting the care that they want and that's because the care is now being managed by this ACO entity, which again, is looking to increase the Medicare shared savings, the savings that they can make off of this one particular patient so that they can take that money with them and not end up spending that money on medical care for the patient.

Q: So if I'm just thinking of my own parents who are in traditional Medicare, I'm wondering if they might be in an ACO and whether or not they know that and what options somebody has if they realize their primary care doctor is part of an ACO? It sounds like they can either stay with their primary care doctor and inevitably have to deal with this kind of narrow network care, or choose another doctor under traditional Medicare that's not part of an ACO?

Malinow: *Yet <laugh>*

But then they're gonna miss out on having their own doctor that they love.

Malinow: Exactly. And as you know, in California or anywhere, it's not easy to find a primary care doctor. It's very, very difficult. In fact, there are entire counties in California with huge, huge problems with primary care because there are just no primary care providers. So I think it puts seniors between a rock and hard space. The thing to do that would be interesting is to ask your parents to ask their primary care doctor if they are in an ACO, the doctor might or might not know, as a matter of fact. So that could be number one. I think that if they like their primary care provider, if they have established a relationship with that provider, I would not recommend leaving because I think that relationships are a huge part of healing and without that relationship, first of all, finding a new person and maybe they're not even going to like that person and who knows if that person isn't going to sign up for an ACO next year. So <laugh>, there's no guarantee. I would say if they like their primary care provider to stick with that provider and ask if they are in an ACO and maybe even be honest and say, do you think that now that you are part of an ACO, is that changing your practice of medicine?

Q: I wonder if they would be honest about that. I think we should do another podcast and ask doctors that question.

Malinow: That would be great.

Q: Basically, it sounds like what's most at stake for patients is their quality of care. Is that right?

Malinow: Yes. So there are three threats that this poses. One is to patients, it threatens their care because they might now be getting skimmed on care or denied care. Two, their choice, right? They chose to sign up for traditional Medicare. They choose to pay more to be on traditional Medicare because we know that it costs more to be on traditional Medicare than Medicare Advantage. And three, all of those shared savings, instead of going to patient care or even back to Medicare, they are now going to a third party, whether it is a for-profit entity or a not-for-profit entity, all of that money that should be going back to Medicare is now hemorrhaging out of Medicare and threatening the solvency of the Medicare trust fund.

Q: Got it. What percentage of seniors are under an ACO?

Malinow: Good question. It is not a small percentage. One third of all seniors on traditional Medicare are in an ACO through this Medicare Shared Savings Program. A third – that's 11 million beneficiaries. Another 2.1 million are in an ACO Reach. Several other million are in some kind of other value-based payment scheme through the Centers for Medicare and Medicaid innovation. So actually, CMS has said that 67% of all seniors are in some kind of care relationship accountable for quality and cost. That includes the 50% ish, the 67% was before we had 50% in Medicare Advantage. Anyway, 50% in Medicare Advantage. And that leaves about 17% of all Medicare beneficiaries that are left in some kind of an ACO. So, which reminds me that the goal of the Centers for Medicare and Medicaid services, the Center for Medicare and Medicaid Services – CMS – is to have 100% of all fee-for-service, traditional Medicare beneficiaries in some kind of care relationship, accountable for quality or cost by 2030.

Wow.

Malinow: Right. So as I said, there's 65 million beneficiaries, you know, that's 32 and 32, something like that. So say, you know, I think something like 18 million maybe that's probably too high, maybe 15 million are in an ACO right now of some kind. So what we're looking at is by 2030, every senior, whether in that pie, whether they're in the Medicare Advantage slice or in the traditional Medicare slice, is going to be privatized in some kind of this, what they call accountable relationship, which accountable means that it's some middleman in there seeking profits from Medicare.

Q: That's horrible and so scary and I can just imagine right now we have such poor health outcomes in things like longevity and maternal death rates. What's going to happen to our outcomes if that does happen?

Malinow: <Laugh>, I think nothing good, honestly, because when you think about it, the health of Americans improves when they turn 65, and we know that it's because now almost a hundred percent of people who turn 65 now have Medicare, right? And actually the older you get, the more likely you are to live longer. Amazingly. I mean, obviously, you know, when you're 99, you're not going to live to to be 120, but what I'm saying is that in, in some ways, the, the chances of you getting older get better if you've survived the first 65 years of your life in

the United States, <laugh>, which is sort of a sad statement. So I think that the reason why under 65 our healthcare outcomes are so poor is because we have a profit-driven healthcare system that you either need to have an employer to pay for your health care and we know that even that doesn't protect you because of the under insurance or you can be uninsured or underinsured or on Medicaid. A million different reasons that our fragmented healthcare system has such very, very poor health outcomes. So profit, and profiteering is the reason why we have poor health outcomes before 65. After 65, we've had, you know, a better chance of having good health outcomes. But now that we're privatizing it more and more and more, and pushing profit in there more and more and more, then what's going to happen is that even after you turn 65, even after you get on Medicare, then our health outcomes are going to become worse.

Q: So Medicare was once a kind of a safe haven for seniors. And now it's becoming more corrupted by privatization and the profit seeking motive that they've had to deal with before they turned 65. So what's being done to stop this?

Malinow: Great question, and thank you so much for asking that, because we are in the state of California, and California is the only state to go on record opposing ACO Reach and corporate profiteering in Medicare. And how did we do that? Well, through the work of hundreds and hundreds of activists that worked together last year to pass Assembly Joint Resolution 4, which was passed overwhelmingly by the assembly and the Senate, and was chaptered by the Secretary of State in September, I think it was September 14th, 2023, puts California on record saying exactly opposing ACO Reach, opposing corporate profiteering in Medicare. And it is sending this resolution or has sent this resolution to President Biden to Health and Human Services Secretary Xavier Becerra, formerly of California to the speakers of the House, of the Senate, and to the California Congressional delegation, letting them know that this is what California stands for.

So I think that was a huge, huge, and really momentous resolution that put California on the map saying we oppose this privatization of Medicare in general, but particularly of traditional Medicare in what we're doing right now through a small, but I think really well organized organization called the Movement to End Privatization of Medicare, is we are using Assembly Joint Resolution 4 to help

educate our California congressional delegation and letting them know this is what California believes, and we believe that you need to speak with President Biden. You need to accept pressure on Secretary Becerra and tell them to end the privatization of traditional Medicare through value-based payment schemes because ACO Reach is just a little tiny, tiny program, but it's value-based payment that we were talking about that is actually threatening the care of seniors on traditional Medicare ostensibly to lower costs and improve care. But we're seeing that that's not happening. So what we need to do is to go to our members of Congress, educate them about the threats that value-based care poses to traditional Medicare, and that threats of privatization in general pose to Medicare because if we don't protect Medicare now, there won't be any Medicare for all left to fight for.

Q: So that was the other question I had. So if everyone's Medicare is basically privatized, could Medicare for All still be implemented?

Malinow: No, well, it could, but then we would all have like a Medicare Advantage for All. Is that what we want?

Q: And so this could happen though by 2030. So that only gives us six years.

Malinow: Exactly. We have got to get to work <laugh>!

Oh my gosh, it just seems so daunting.

Malinow: It is daunting. But I will tell you what I find really inspiring is that every single time that we go out and talk with seniors and people with disabilities and even non-seniors about what is happening, the privatization through ACOs, through ACO Reach, through Medicare Advantage, when we talk to seniors about the threat that Medicare is under, their jaw drops, they say, what? I never knew that, because one of the things that's happening is that … the privatization, whether it's of traditional Medicare or Medicare Advantage drives up costs for everybody. So the Part B premiums go up for everybody because we're hemorrhaging money and it's going all to these private corporations. So that's why, you know, people don't don't like corporate greed. They, they just don't in general, <laugh>. I think that's safe to say and that's what I find inspiring because I

think that that really mobilizes people. And, and that's really what we need to talk about, about corporate greed and that we are upping our demand here, right? We are not going to be satisfied with small crumbs. Little incremental change here, little incremental change there. No, we're upping our demands and our demand is to have a national single payer healthcare system that has comprehensive benefits, that is universal, that is equitable, and just, and that's that and we are going to have it, we're going to get it. Because, because we can. And anybody who says differently is simply trying to take the wealth that your work creates, right? You pay into Medicare every two weeks for your entire working life. That's your wealth. Why are we giving it to corporations?

Thank you Dr. Ana Malinow. If you're in California and would like to join the efforts of the Movement to End the Privatization of Medicare, you can reach Dr. Malinow by email at anamalinow@gmail.com.

Do you have a personal story you'd like to share about our 'wack' healthcare system? Contact us through our website at heal-ca.org.

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