REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 1-A-09

Subject: Free Clinics and the Uninsured

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Referred to: Reference Committee A
(Steven E. Larson, MD, Chair)

At the 2008 Annual Meeting, the House of Delegates adopted Resolution 112 (Policy D-160.983, AMA Policy Database), which called for the American Medical Association (AMA) to study free clinics with the goal of facilitating improved access to care for the uninsured, consistent with the message of the AMA Voice for the Uninsured campaign. The Board of Trustees referred the requested study to the Council on Medical Service (CMS) for a report back to the House at the 2009 Annual Meeting.

This report provides an overview of free clinics and the AMA Voice for the Uninsured campaign, discusses the role of insurance, describes the funding options for free clinics, addresses access to specialty care, summarizes the medical liability coverage options for physicians participating in free clinic settings, highlights relevant AMA policy and advocacy, and recommends continued support of the AMA's comprehensive strategy to expand health insurance coverage.

BACKGROUND

Free clinics and community health centers provide care to patients regardless of insurance status. In an effort to assist the rising number of the uninsured, many physicians and health professionals provide care to an estimated 4.5 million of these individuals at free clinics. In addition, many physicians provide charity care in their offices.

The National Association of Free Clinics (NAFC) defines free clinics as private, non-profit, community-based organizations that provide medical, dental, pharmaceutical and/or mental health services at little or no cost to low-income, uninsured and underinsured people. Free clinics are often confused with federally qualified community health centers. Free clinics typically provide health care at little or no cost to patients, have patients who are primarily uninsured, rely on volunteers and resources of the community, and face persistent financial struggles.

In contrast, federally qualified community health centers (CHCs) typically provide health services to the medically underserved and financially disadvantaged, many of whom are insured through Medicaid. Unlike free clinics, CHCs receive federal grant funding and are required to provide a defined set of medical services for all residents of their service areas, regardless of ability to pay. CHCs collectively serve a larger volume of patients than free clinics (more than 16 million CHC patients annually verses an estimated 4.5 million free clinic patients). In 2002, the Department of Health and Human Services launched the Federal Health Center Growth Initiative, which increased the capacity of CHCs by 60% from 2002 to 2006. As requested by Policy D-160.983, this report focuses on the role free clinics play in providing care to uninsured patients, rather than free care

provided by federally qualified CHCs or by individual physicians. CMS Report 8-A-05, "Offsetting the Costs of Providing Uncompensated Care," discusses the amount of charity and otherwise uncompensated care provided by physicians.

FUNDING FOR FREE CLINICS AND PATIENT PAYMENT FOR CARE

Free clinics generally receive little, if any, federal financial support. Rather, they are typically funded through a patchwork of donated goods and services, relying on volunteer service and fundraising. Funding sources for free clinics include grants from individuals, foundations (e.g., the Robert Wood Johnson Foundation, the Kellogg Foundation, and the AMA Foundation), corporations, civic organizations (e.g., the United Way), special events, churches and hospitals, county property taxes, disproportionate share hospital funds, state shares of the Master Tobacco Settlement, and county and state medically indigent funds.

A majority of free clinic patients are employed, yet most do not qualify for public health care coverage such as Medicaid and do not have private health insurance. Free clinics encourage those who have insurance to use it unless they are seeking confidential and anonymous HIV testing services. According to the NAFC, fewer than 25% of free clinic patients are insured. Some clinics encourage patients to take responsibility for improving their health and have on-site education centers where patients can learn about health and wellness topics.

Free clinics rely on volunteers at all levels, though a majority has some paid staff. Receptionists, administrators, physicians, nurses, pharmacists and dentists, volunteer their time and skill. Typically, physicians in volunteer clinics donate one to four half-day sessions a month and physicians in private offices volunteer to see a few patients a month.

FREE CLINIC SERVICES AND ACCESS TO SPECIALTY CARE

Free clinics typically provide treatment for minor illnesses and injuries, chronic condition management, and gynecological care. Testimony on Resolution 112 (A-08) indicated a concern that uninsured patients often have difficulty obtaining specialty care. Taylor et al., (*Health Affairs*, 2006) describe strategies developed in twelve Community Tracking Survey markets and focus on strategies that go beyond the traditional safety net options of free clinics and CHCs. In particular, the article examines various models of "brokered access," in community-administered care coordination and the more recent development of limited benefit coverage in some communities. Brokered access could include formalized networks of specialty care physicians, who are either paid for their services, or provide free services to patients of multiple community-based clinics through a nonprofit intermediary. Some communities developed smaller formalized networks of volunteer specialty care physicians who provide free services to patients of a single community-based clinic.

Another model described by Taylor et al. involves donated care, which is often administered through a local medical society. North Carolina was cited as a pioneer of this model with its Project Access of Buncombe County. The project was founded to structure physician charity care, encourage more physicians to participate in charitable activities, and provide a central point of contact for medically indigent patients. Similar approaches are now being used in at least forty US communities, including Greenville, South Carolina; Indianapolis, Indiana; Little Rock, Arkansas; and San Francisco, California.

Free clinics, including models to address off-site specialty access, often are not able to provide care that is comprehensive and long-term. Some programs only enroll patients for a few months at a time. In addition, patients often find it difficult to schedule appointments and receive care due to

limits on the number of patient referrals a physician may see in a given period. Establishing a clinic that depends on donated care in rural communities may be especially difficult given that these areas already face a shortage of many specialists.

Organizations that encourage physician volunteer opportunities include "Operation Giving Back," "Give an Hour," and "Volunteers in Medicine." "Operation Giving Back," sponsored by the American College of Surgeons, provides resources for surgeons seeking volunteer opportunities. "Give an Hour" is a volunteer organization that focuses on the mental health needs of military personnel and families. Mental health professionals agree to provide one hour per week of mental health treatment at no charge for a minimum of one year. The "Volunteers in Medicine" clinic model, initiated in South Carolina, is integrated in several communities throughout the US. Primarily owned and supported by retired physicians, "Volunteers in Medicine" clinics provide health care services to the working uninsured. More information about these programs can be found at the following Web sites: www.operationgivingback.facs.org, www.giveanhour.org, and www.volunteersinmedicine.org.

LIABILITY COVERAGE AND FREE CLINICS

Under the Federal Tort Claims Act (FTCA), private parties are able to sue the government for negligent acts of federal employees who acted within the scope of their jobs. Since 2004, the FTCA has provided medical malpractice protection for volunteer free clinic health professionals by authorizing the Department of Health and Human Services to deem a volunteer to be a federal employee. Once a free clinic or health professional qualifies under the FTCA, the center or physician can not be sued directly for medical liability, but a claim can be filed against the US. FTCA liability insurance coverage includes ordinary negligence, gross negligence, and punitive damages resulting in performance of medical, surgical, dental or related functions. The process of obtaining coverage under the FTCA can be onerous because there are several guidelines that a clinic has to meet to qualify for FTCA status, resulting in only a small number of free clinics obtaining coverage. Furthermore, funding for the payment of claims is subject to annual congressional appropriation.

Licensure and malpractice insurance are barriers to physician volunteerism. In some states, retired physician volunteers can receive malpractice insurance coverage through the Joint Underwriters Association.

AMA POLICY AND ADVOCACY

Policy D-160.983 asks that the AMA study free clinics with the goal of facilitating improved access to care for the uninsured, consistent with the message of the AMA Voice for the Uninsured campaign. The Voice for the Uninsured campaign has been a three-year campaign designed to raise awareness of the uninsured and advance the AMA proposal for expanding health insurance coverage and choice. As planned, the campaign transitioned into its third and final year in 2009 and is now focused on legislative strategy. Key policies underlying the AMA proposal include providing individuals and families with subsidies to purchase coverage, expanding individual choice, and reforming health insurance market regulations to protect vulnerable populations (i.e., Policies H-165.920, H-165.865, and H-165.856). Long-standing AMA policy affirms support for pluralism of health delivery systems and the right of the individual to select his or her own health insurance (H-165.920[1,3]). The AMA advocates that refundable, advanceable tax credits, inversely related to income are preferred as a means of providing coverage to the uninsured (H-165.920[14]). AMA policy encourages the establishment of free clinics as an immediate partial solution to providing access to health care for indigent and underserved populations (H-160.953). The AMA also advocates that each physician share in providing care to the indigent, and supports

organized efforts to involve volunteer physicians in programs that deliver health care in free clinics (H-160.961 and H-160.940). In addition, the AMA encourages local medical societies, medical schools, and teaching hospitals to develop innovative service and financing mechanisms for delivering care in the inner city (H-160.959[4]).

The AMA Foundation recognizes extraordinary physicians and volunteers who work in free clinic settings. The AMA Foundation awards grants of $10,000 to $25,000 to physician-led free clinics through the Healthy Communities/Healthy America program, which is supported in part by a grant from Pfizer Incorporated. Several policies support the work of the AMA Foundation (D-160.996, H-305.990, H-305.999 and D-630.974), but none specifically support the Foundation's grant program for free clinics.

The AMA provides a list of licensing provisions and liability laws for senior physicians seeking opportunities to serve as volunteers, and supports funding liability coverage for physicians volunteers (D-160.991). The list can be found online at www.ama-assn.org/ama1/pub/upload/mm/22/state-licensing.pdf.

DISCUSSION

The AMA Voice for the Uninsured campaign was a culmination of policy developed by the Council and adopted by the House of Delegates. Since 1998, with the adoption of the recommendations contained in CMS Report 9-A-98, "Individually Selected and Owned Health Insurance," the AMA has advocated expanding health insurance coverage and choice using individual tax credits to finance individual ownership of health insurance (Policy H-165.920). The House of Delegates has substantially refined this policy since 1998 though actions on numerous resolutions and nearly 50 reports of the Council on Medical Service, but the fundamental focus of expanding individual choice and coverage has remained unchanged.

AMA policy supports free clinics as a partial solution for providing access to low-income and underserved populations and advocates that each physician share in providing care to the indigent. The Council commends physician volunteers, but believes that the comprehensive and long-term strategy for achieving access to care, as promoted through AMA policy and the Voice for the Uninsured campaign, should continue to focus on expanding health insurance coverage and choice, rather than encouraging access to the limited care provided at free clinics.

Physician volunteerism is hampered by the urgent need for health system reform, particularly with respect to Medicare and Medicaid payment rates, growing liability concerns, and increased pressures on physician time. It is particularly essential that physicians who take the opportunity to volunteer are extended medical liability coverage as intended under the FTCA.

Free clinics and the Voice for the Uninsured campaign share the goal of improving health care access for the uninsured. However, community programs are often constrained by limited resources, an inadequate capacity for providing health care services, and lack the financial means to provide their services to more of the uninsured. Accordingly, free clinics can only be an interim and partial solution to providing health care access to the uninsured. The Voice for the Uninsured campaign continues to seek to expand health insurance coverage and choice so that the uninsured can seek care when and where they need it.

The Council believes this report accomplishes the study called for in Policy D-160.983. Accordingly, the Council recommends that Policy D-160.983 be rescinded.

RECOMMENDATIONS

The Council on Medical Service recommends that the following be adopted and the remainder of the report be filed:

1. That our American Medical Association continue to use the Voice for the Uninsured campaign to advocate refundable, advanceable tax credits inversely related to income, with the goal of expanding health insurance coverage and choice, rather than to promote access to free clinics. (Directive to Take Action)

2. That our AMA congratulate the AMA Foundation for providing funding to free clinics through the Health Communities/Healthy America grants. (Directive to Take Action)

3. That our AMA support efforts to reduce the barriers faced by physicians volunteering in free clinics, including medical liability coverage under the Federal Tort Claims Act, liability protection under state and federal law, and state licensure provisions for retired physicians. (New HOD Policy)

4. That our AMA rescind Policy D-160.983. (Rescind HOD Policy)

Fiscal Note: Staff cost estimated to be less than $500 to implement.

References are available from the AMA Division of Socioeconomic Policy Development.