Do Medicaid and Medicare Patients Sue More Often Than Other Patients?

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BACKGROUND PAPER

Roger Herdman, Assistant Director, OTA
Health and Life Sciences Division

Clyde J. Behney, Health Program Manager

Judith L. Wagner, Project Director

Project Staff

Polly Ehrenhaft, Contractor

Other Contributing Staff

Jacqueline Corrigan, Senior Analyst
Leah Wolfe, Analyst
Philip Polishuk, Research Assistant

Administrative Staff

Marian Grochowski, Office Administrator
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JOHN H. GIBBONS

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FOREWORD

Whether Medicaid and Medicare patients are likely to sue more or less often than other patients is a critical question in studying the recent trend of reduced physician participation in Medicaid and other publicly funded programs.

The Office of Technology Assessment addressed this issue as a part of its larger study on *Defensive Medicine and the Use of Medical Technology.* Denying medical access to patients whom physicians feel are more Litigious is defined as negative defensive medicine. This has become a particularly acute problem in the practice of obstetrics. The increased possibility of an adverse outcome, and therefore a potential lawsuit, as well as steeply rising malpractice insurance premiums is said to have driven physicians from the practice of obstetrics or significantly curtailed their volume of deliveries.

This background paper also responds to the request of the Congressional Sunbelt Caucus that OTA examine and judge the available evidence on whether Medicaid and Medicare patients, particularly obstetrics patients, are more litigious than other patients. Although the evidence is sparse, OTA's conclusions are strong: these patients are not more likely to sue and may actually sue less often than would be expected on the basis of their medical risks. A growing majority of obstetricians apparently agree with this assessment.

JOHN H. GIBBONS
Director

DO MEDICAID AND MEDICARE PATIENTS SUE PHYSICIANS MORE OFTEN THAN OTHER PATIENTS?

SUMMARY

Fear of being sued for malpractice is often cited as one reason for the distressing trend of reduced physician participation in Medicaid and other publicly funded programs (8). Physicians in many specialties report practice changes in response to the threat of malpractice liability, including dropping services to medically "high-risk" patients. But the problem is particularly acute in the practice of obstetrics (32). As of 1990, 24 percent of obstetricians reported they limited their high-risk obstetric care and 12 percent stopped practicing obstetrics altogether (21). Over one-third of practicing obstetricians responding to a 1987 survey did not provide services to Medicaid patients (5). The American Academy of Family Physicians reports a continuing trend among its membership to drop obstetrics services; by 1990, only 28 percent of family practitioners continued to provide obstetric services (8,1). Although concern about malpractice is not the only reason for obstetric providers' changing practice patterns, these surveys indicate that access to care for poor patients has suffered.

But do Medicaid patients sue doctors more often than other patients? Anecdotal information suggests that a significant proportion of physicians believe that poor patients sue more often (8). Some lawyers maintain that the doctors should expect the poor to sue less frequently because it is difficult for poor people to obtain legal representation for malpractice claims (13). Malpractice suits are typically brought on a contingent fee basis and awards are based on future earnings as well as pain and suffering. Thus, representing the poor and the elderly may not be as economically profitable for private bar lawyers as representing those with substantial potential future earnings. On the other hand, the courts do not assume that the

children of poor families are also likely to be poor, and claims for injuries to newborns have historically brought some of the highest payments of all malpractice awards (29). Therefore, under the contingency fee system the potential for large damage awards should equalize access to presentation for Medicaid obstetric patients.

The Office of Technology Assessment undertook a literature review to examine the issue of whether Medicaid and Medicare patients are more litigious than other patients. The existing literature on this subject is not large and suffers from a number of limitations. Surveys, whether of physicians, hospitals, or insurers, are inherently limited by problems of recall, selection bias, and inter-respondent variations in interpretation and quality of data preparation. For those studies that actually examined malpractice claims, most did not have access to data on the entire population of malpractice claims in an area. Only two studies were able to relate proportionate representation in a universe of claims with proportionate use of health care services. The results of these studies were considered most valid and given considerable weight in reaching conclusions. Congruent results from numerous studies, even when sample sizes were small, also weighed heavily in making findings.

Despite the sometimes contradictory evidence and the methodological problems, OTA reached several conclusions from this literature review. Each of the findings that follow is discussed extensively in the text.

FINDINGS ON THE MEDICAID POPULATION

(1) Medicaid patients sue physicians less frequently than would be expected by their relative proportion of the population. Four studies, one national and three statewide, compared the proportion of malpractice claims filed by Medicaid recipients with the proportion of the population enrolled in the Medicaid Program. All the studies had congruent findings, and one, which examined malpractice

claims in Maryland, had high internal validity. However, this finding may reflect the Medicaid population's less frequent use of the health care system compared with other groups rather than a lower statistical propensity to sue.

(2) Information on financial settlements in malpractice cases is insufficient to reach conclusions about Medicaid versus non-Medicaid awards. A national study of 1984 claims found Medicaid patients received lower average malpractice awards than non-Medicaid patients. The only two other studies that reported financial awards found higher awards for Medicaid patients compared with other patients. Because of the small number of claims available for analysis in both studies, these findings have anecdotal rather than statistical significance.

(3) Medicaid obstetricpatients probably sue physicians about as often as other patients, but the evidence is not conclusive. The Maryland study, which had high internal validity, found that the percent of malpractice claims filed by Medicaid patients did not exceed the proportion of Medicaid hospital discharges for obstetric services. Another statewide study found fewer Medicaid claims filed than expected by the relative proportion of Medicaid births. On the other hand, two other surveys, one of which was national in scope, found higher rates of litigation than expected among Medicaid obstetric patients. However, the difference between Medicaid malpractice filings and discharges in the national survey of hospitals was, not statistically significant.

(4) Although about one-third of obstetricians believe that Medicaid patients sue more often than other patients the extent of this belief has diminished in the recent past. The American College of Obstetricians and Gynecologists surveyed obstetricians in

1986 and again in 1990 and asked if their belief that Medicaid patients sue more often is a deterrent to their participation in the Medicaid program. In the first survey, 45 percent of the obstetricians who did provide services to Medicaid recipients cited this belief, but in 1990 there was a significant drop in the proportion of these participating obstetricians (to 34 percent) who indicated that they believe Medicaid patients are more likely to sue.

FINDINGS ON THE MEDICARE POPULATION

Medicare patients sue physicians less frequently than expected given their heavy use of health services. Although only one statewide study examined elderly people's litigiousness, it was a well conducted study.

REVIEW OF EVIDENCE

Medicaid Patients Sue Physicians Less Frequently Than Other Patients.

Table 1 shows the results of four studies that compared Medicaid patients' rate of filing medical malpractice claims with their representation in the population. Three of the studies examined malpractice claims that were closed, and the other study reported responses from a physician survey. All the studies found that Medicaid patients filed malpractice claims considerably less frequently than would be expected by the proportion of the population enrolled in the Medicaid Program. Moreover, the studies had remarkably congruent findings. The proportion of malpractice suits initiated by Medicaid recipients ranged from 4 to 9 percent of total claims, and total Medicaid enrollment was 9 to 12 percent of the total populations. A discussion of these studies follows.

The General Accounting Office (GAO) analyzed data from a random sample of malpractice claim files closed in 1984 by 25 insurers (29). Relying on information provided solely by the insurers, this baseline national study provided data for a myriad of issues related

to malpractice liability. Overall, Medicaid recipients accounted for about 9 percent of the U.S. population in 1984. GAO found that only 3.9 percent of malpractice claims involved Medicaid recipients, but the source of payment of the patients' health care costs was not identified by the insurers for 32 percent of the claims sample. When the claims for which payer status is unknown are eliminated from the calculation, Medicaid claims represented 5.8 percent of all claims[1] (8).

The Michigan Department of Licensing and Regulation reviewed the Insurance Bureau's medical malpractice closed claim data base for the years 1985 through 1987 (27). They found that Medicaid-related closed claims accounted for 6.23 percent of all closed claims, while the Medicaid-eligible population for the same period ranged from 10 to 11 percent of the total population of Michigan.

In another statewide study, researchers examined all malpractice claims filed during 1985 and 1986 in Maryland (16). They found that the percent of claims attributed to people who had ever been enrolled in Medicaid was approximately the same or slightly higher than the proportion of the State population enrolled in Medicaid. However, when only those claims filed by people enrolled in Medicaid before or during the incident were examined, the proportion of claims filed by Medicaid enrollees was lower than the overall proportion of Medicaid enrollees in the State (See Table 1). In 1985 and 1986, respectively, 47 and 22 percent of claims filed by Medicaid recipients were filed by people who were first enrolled in Medicaid only after the alleged malpractice incident.

Of the four studies discussed here, the Maryland study employed the most rigorous methodology and the most valid data base. The universe of malpractice claims could be captured because during the study period Maryland required that all health care malpractice

1 This adjustment may overestimate Medicaid patients' contribution to the claims sample because the assumption is that the unknowns are distributed similarly to the knowns. A likely reason for omission of payer status in the claims file is that the patients had no source of payment for their health care costs.

claims in excess of $5000 be submitted to a central arbitration office for pretrial screening. The researchers then used state Medicaid enrollment history data to determine the Medicaid eligibility status of claimants before, during, and/or after the date of the alleged malpractice incident.

The Maryland study illustrates how important it is to exclude Medicaid recipients who became eligible for Medicaid after the malpractice incident for which they are suing. So-called "spend-down" provisions in most States (including Maryland and Michigan), allow individuals whose incomes lie above Medicaid's financial-need level to qualify for Medicaid if their medical expenses are high enough to reduce their countable income below the financial maximum. Because the Michigan study, which found the percent of Medicaid-related claims to all closed claims in the State to be substantially lower than that of the Medicaid-eligible population within the total population, did not control for pm-incident eligibility for Medicaid, it may have overestimated the number of Medicaid claims. Presumably, improved data would show an even lower percentage of total claims filed by people who were Medicaid recipients at the time of the medical incident. The GAO survey instrument specifically asked the insurer for the source of payment of the patient's health care costs prior to the liability injury (29). The insurers' inability to answer this question based on their data may have contributed, in part, to the substantial percentage of claims for which payer status is unknown.

The most serious shortcoming of all three of these studies is that they compare the litigiousness of Medicaid patients with their proportionate representation in the general population. But representing 11 percent of a State's population does not mean that Medicaid recipients use 11 percent of the State's health care resources. In fact, although there is considerable variation from State to State, nationally in 1986 about 70 percent of all Medicaid eligibles were enrolled as Aid to Families with Dependent Children (AFDC) program participants. Only 23 percent of total Medicaid payments were made on behalf of these AFDC beneficiaries (31). Other Medicaid recipients include certain aged, blind, and disabled

individuals. These latter beneficiaries might be expected to be heavier than average users of health care, while the large proportion of underage children enrolled in the Medicaid program would be expected to be less frequent users of health care. Sorting out expectations for use of health care by the diverse and changing population of Medicaid beneficiaries is not possible without empirical data from health care providers. It should be noted that the finding that Medicaid recipients as a group are less litigious than other patients may reflect less frequent participation in the health care system rather than a lower statistical propensity to sue.

The remaining study cited in Table 1 is based on physicians' reports about malpractice claims brought against them and the patient populations served in their practices. In 1988, the Texas Medical Association surveyed a random sample of physicians in all specialties by mail about their malpractice claims experience in 1986 and 1987 (28). Physicians were asked how many suits were filed against them resulting from care to Medicaid patients, and they were also asked to estimate the percentage of their total patients who were covered by Medicaid. The study found Medicaid patients filed 3.5 percent of all malpractice suits and accounted for about 12 percent of all patients seen by Texas physicians.

Surveys that depend on physician recall and perception have a high degree of error. Aggregating such inexact estimates can only result in an inexact statistic. Moreover, there is some evidence that physicians generally tend to overstate the proportion of Medicaid patients in their practice (10,8). Reports of claims data can also be inaccurate. A study assessing the impact of malpractice litigation on the doctor-patient relationship found that 10 percent of surveyed physicians denied ever having been sued despite independent confirmation of claims having been filed (26). The extent to which such over- and/or under-estimation affects the validity of the results of these provider surveys cannot be determined.

Medicaid Obstetric Patients Probably Sue Physicians About As Often As Other Patients, But The Evidence Is Not Conclusive.

Congressional concern over increasingly limited access to obstetric care for poor women because of physicians' responses to malpractice pressures spurred this literature review. Obstetricians/gynecologists and general surgeons are the most frequently sued physicians in malpractice cases (29). The American College of Obstetricians and Gynecologists (ACOG) physician survey reported that as of 1990, 78 percent of surveyed obstetricians indicated they had at least one professional liability claim filed against them over the course of their careers; this was a statistically significant increase from the 71 percent reporting at least one claim in 1987 (21).

Comparing malpractice claim rates with the frequency of births in different populations is a good indicator of relative litigiousness because obstetric patients share a common condition and can be expected to use health care services somewhat similarly, regardless of payer status. It should be noted, however, that numerous studies have shown that impoverished women enter maternity care later in their pregnancy and receive less care than women with incomes above poverty levels (30). Moreover, maternal low-income status is associated with higher morbidity and mortality for newborns (30,33). Statistically, therefore, Medicaid obstetric patients are more frequently medically "high risk" patients.

Because Medicaid patients have a greater incidence of adverse outcomes during birth, one might also expect that Medicaid patients would have a higher suit rote. For example, if one found that non-Medicaid patients had 5 adverse outcomes per 100 births, but Medicaid patients had 20 adverse outcomes per birth, one would expect more suits to be initiated by

Medicaid patients because they suffered more injuries.[2] A suit rate among Medicaid obstetric patients that is no greater than among non-Medicaid patients suggests that the Medicaid patients may be even less litigious than the data shown.

Table 2 shows the results of four studies that related the proportion of obstetric malpractice claims filed by Medicaid recipients to their proportion of all obstetric patients. In the first study, the same researchers who examined all Medicaid claims in Maryland also analyzed the subset of obstetric claims filed by Medicaid recipients (16). They were able to capture the proportion of obstetric patients discharged from Maryland hospitals who were covered by Medicaid because Maryland collects computerized abstracts on all hospital discharges. The availability of data sets in Maryland covering the universe of both malpractice claims and hospital discharges permits an analysis with high internal validity. The study found the proportion of obstetric claims filed by Medicaid recipients was identical (21 percent) to the proportion of Medicaid hospital discharges for obstetric services during the period in which the incidents occurred.

In another statewide study, researchers at the University of Washington examined the incidence of obstetric malpractice claims brought against private physicians by Medicaid patients (4). Washington has no central database on malpractice claims, so researchers used the closed obstetric claims (filed between 1982 and 1988) of the major obstetric malpractice insurer as the claim frequency measure. The majority of physicians serving obstetric patients in Washington are insured with this physician-sponsored insurance company, but several large physician groups who serve Medicaid patients, including physicians practicing at the

2 Admittedly, malpractice suits should be brought only if there is negligence on the part of the physician, and there is no evidence that the higher rate of adverse outcomes for Medicaid patients is tied to negligence. On the other hand, mothers of severely injured infants may be motivated by a number of factors in filing a suit, including the need to pay for long-term care, a realization that the child has no future, a desire to deter future malpractice, or to seek revenge (’7). Moreover, if negligence can not be completely ruled out, a lawyer might decide to bring the suit given the size of potential damages.

University hospital or at a large health maintenance organization, are no insured with this company (23,2). Total obstetric claims during this period (62 claims) were a little more than half those reported by the Maryland study (100 claims). Eleven percent of the recorded obstetric claims in Washington were brought by Medicaid patients. In comparison, the proportion of all births in Washington that were delivered by Medicaid recipients during the study period was 19 percent. Researchers then adjusted the comparison group based on physician survey data to account for the relatively fewer Medicaid recipients cared for by the private physicians in their practices than in the general population; this calculation estimated that about 17.5 percent of obstetric patients cared for by the private physicians were Medicaid recipients (4,3).

Despite the data limitations of the Washington study, the findings bolster the conclusions of the Maryland study. Are Maryland and Washington similar to the rest of the country? According to physician surveys, Maryland is in the least litigious area of the country while states in the West (excluding California) have some of the higher rates of malpractice litigation among obstetric providers (20,21,32). Both of these states have enacted malpractice tort reforms, but the legislative changes did not disproportionately affect the ability of Medicaid recipients to initiate malpractice claims during the study years[3] (24,2,14).

One national study found Medicaid obstetric patients sued less than expected. The mission of Federally funded community and migrant health centers is to provide care to poor and uninsured people; 25 to 40 percent of their patients are eligible for Medicaid (13). A 1986 survey of community and migrant health centers found that only 16 percent of health center obstetricians had ever been sued for malpractice compared with 73 percent of obstetricians

3 A 1986 legislative change in Maryland requires a "certificate of merit" be filed within 90 days of making a malpractice claim. Because the cost of filing is estimated to be between $500 and $800, Medicaid recipients could face a financial barrier to initiating a malpractice suit. This requirement did not affect the claims examined in the Maryland study cited here (14).

nationally (17,18). Direct comparison between health centers' obstetricians and the national sample has two important limitations: the health center survey involved very few claims (only 14 claims were obstetric); and most health center obstetricians had been in practice for a relatively short time.

The remaining two studies cited in Table 2 had contrary findings. ACOG surveyed a random stratified sample of 313 hospitals in 1987 about their obstetric malpractice claims experience in 1982 (19). Surveyors depended on hospitals to complete questions about claims by patient payer status. Hospitals however, vary in how such information is maintained and retrieved. The survey found that while Medicaid patients tended to be over represented as litigants (24.8 percent of all claims) relative to the proportion of deliveries they represented (17.1 percent), the difference was not statistically significant.

Finally, respondents in a 1986 Washington State survey of 1537 obstetric providers (obstetricians, family practitioners, and midwives) said that 26 percent of their reported malpractice claims had been initiated by Medicaid recipients, whereas Medicaid patients accounted for only 17.6 percent of their practices (24).

The survey asked providers to estimate the proportion of their obstetrics practice represented by Medicaid patients over the years 1985 to 1987. Such estimates are totally subjective, but the finding of 17.6 percent is remarkably consistent with the finding of the other Washington State study that examined the obstetric claims of a major insurer. The latter study by Baldwin et al. concluded from other unrelated physician surveys that 17.5 percent of the births in Washington that were cared for by private practitioners between 1982 and 1988 were Medicaid recipients. (4)

The Washington survey also relied on obstetric providers estimates of whether they were ever named in an obstetric malpractice suit and the number of such suits filed by Medicaid recipients (6). Like the Texas survey of physicians discussed in the previous section, such surveys that depend on physician recall and perception are subject to a high degree of error.

Information On Financial Settlements in Malpractice Cases is Insufficient to Reach Conclusions About Medicaid Versus Non- Medicaid Awards. "

Few studies examined the amount of malpractice settlements by patient, the patient's kind of insurance or payment. The GAO study that analyzed a national sample of claims in 1984 found that a Medicaid plaintiff's average malpractice award was approximately $50,000, compared with an average $250,000 award for privately insured patients[4] (29). There were almost 1500 paid claims to Medicaid recipients in the sample. One factor influencing the amount of the award was that Medicaid recipients most often experienced "insignificant" injuries (24 percent) and "minor temporary disabilities" (about 23 percent).

The two other studies that reported malpractice awards by payer status found higher awards for Medicaid patients than for non-Medicaid patients. Both studies are limited by the small number of claims and potential selection bias in the claims available for analysis. The researchers who studied malpractice claims in Maryland examined the size of the award for those claims requiring a formal hearing for resolution. (Details of claims settled prior to formal arbitration are private (16)). These included only five Medicaid and 65 non-Medicaid claims (12 percent of all malpractice claims examined in the study). The median award for the Medicaid claims was $80,000 and for the non- Medicaid claims, $58,000. The claims filed by Medicaid beneficiaries were more likely to involve injuries of a permanent nature, while non-Medicaid claimants were more likely to have temporary injuries or injuries resulting in death. The GAO study determined that the highest median indemnity payments are for permanent disabilities (29).

The study of obstetric malpractice claims in Washington found the mean indemnity was three times greater for the Medicaid claims ($351,000) than for the non-Medicaid claims ($108,000) (4). Obstetric claims result in the highest median and average payments (29). One

4 The published GAO data only include payout in one year. Because large awards frequently involve payments over time, the averages in the report understate the effect of these awards. The results reported here are based on a retabulation of the data (15).

hypothesis is that because of such high payouts, Medicaid obstetric recipients with severe *injuries can* find representation for their malpractice claims. However, like the Maryland study, the number of Medicaid claims about which financial information is available in the Washington study is too small to infer statistical significance. Two of seven Medicaid settlements were for over $500,000 while 4 of the 55 non-Medicaid settlements surpassed that amount.

Medicare Patients **Sue Physicians Less Frequently Than Expected Given Their** Heavy Use **of Health Services.**

OTA was also asked to examine whether Medicare patients, who are generally over 65 years of age, are more or less litigious than other patients. Only one study specifically addresses how often the elderly sue physicians. Like the study of malpractice claims in Maryland, researchers in Wisconsin were able to examine a universe of claims and relate the results to measures of health care use. Thus, the study's results can be considered reliable and valid. In Wisconsin all malpractice claims must be filed with the Patients Compensation Panel, which reviews them as a prerequisite to initiating a circuit court action. The study analyzed 431 malpractice claims filed in 1983 and 1984. The frequency of litigation by age was compared with the age distribution of Wisconsin's population and also with the number of hospitalizations and inpatient days for those above and below the age of 65. The latter analysis was used as a measure of the frequency of litigation according to exposure to the health care system (25).

The study found that the elderly filed 10 percent of the malpractice suits and made up 12.7 percent of the population in Wisconsin during the study years. These results coincide with the 9.9 percent of all malpractice claims filed by Medicare beneficiaries in the national sample reported by the GAO (29). When proportion of the population is used as the comparison group, the elderly sued about as often as expected.

However, when the number of claims was compared to use of health services, a better measure for determining litigiousness, Medicare patients were less likely to sue. The elderly in 1984 accounted for almost one-third of the admissions to hospitals, where more than 80 percent of malpractice injuries occur (25). When the Wisconsin researchers compared the frequency of litigation of the elderly with their rates of hospitalization and inpatient days, the elderly's rate of filing claims was significantly ($P < .001$) lower than expected. The authors hypothesize that the difficulty in proving causation (the elderly may have numerous preexisting illnesses), the contingency fee system, and the limited Life expectancy of advanced age may combine to limit malpractice litigation and compensation for the elderly.

About One-Third of Obstetricians Believe That Medicaid Patients Sue More Often Than Other Patients.

Few surveys directly ask physicians if they believe Medicaid patients sue more often. ACOG has periodically surveyed its membership for the past decade about changes made in their personal practices as a result of the risk of malpractice (21). The surveys do not ask specifically about changes in the acceptance of Medicaid patients. Likewise, the American Academy of Family Physicians (AAFP) has tracked the continuing decline in the practice of obstetrics by family practitioners. AAFP asks only if the cost or "other reasons" related to malpractice liability are responsible for dropping obstetric services; concerns about the litigiousness of Medicaid patients are not queried (22).

However, ACOG's Committee on Health Care for UnderServed Women surveyed obstetricians in 1986 specifically to find out what services were being provided to Medicaid patients and other low-income women (5). The national random sample produced a response rate of 45 percent, and nearly two-thirds (63 percent) of the obstetric providers indicated that they provide care to Medicaid patients.

The belief that Medicaid patients are more likely to sue was rated as a major deterrent to Medicaid participation by 41 percent of the obstetricians who do not provide services to Medicaid patients. Those in solo fee-for-service practices were more likely to cite this belief as an important reason for nonparticipation than were those in other practice settings. An even higher percentage (45 percent) of obstetricians who do provide obstetric services to Medicaid patients reported the concern that Medicaid patients are more likely to sue. The issues of low reimbursement, denial of eligibility, and slow payment were consistently listed by both groups of obstetricians as more significant problems in dealing with the Medicaid system than their belief that Medicaid patients are more likely to sue.

In 1990, the ACOG committee repeated the survey of a national sample of obstetricians with the same questions (9). Thirty-nine percent of the obstetricians who do not provide obstetric services for Medicaid recipients indicated that their concern that Medicaid patients are more likely to sue is a barrier to Medicaid participation. However, this was a problem for only 34 percent of the obstetricians who do provide care to Medicaid patients. Therefore, there was a significant decline between surveys in the number of obstetricians who believe that Medicaid patients sue more frequently, at least among those obstetricians who are serving Medicaid patients.

Similar findings come from unpublished surveys of obstetric providers in the state of Washington (3). In 1989, 1267 obstetricians and family practitioners were asked how likely Medicaid patients are to file malpractice suits compared with other patients. Forty-three percent of the obstetricians and 30 percent of the family practitioners responded that Medicaid patients are more likely to file suits than other patients. Preliminary results from a similar 1991 survey asking the same question showed that 28 percent of the obstetricians and 15 percent of the family practitioners believe that Medicaid patients are more likely to sue than other patients.

The belief that Medicaid patients sue more often is held by a substantial minority of physicians who practice obstetrics, but by no means the majority. The recent significant decrease in the proportion of physicians professing this belief, however, may indicate that physicians' perceptions are coming into line with reality. Moreover, the extent to which physicians' unwillingness to provide services to Medicaid women is motivated by this factor or by other concerns, such as inadequate compensation or red tape, cannot be determined from the existing evidence.

Table l--Proportion of Malpractice Claims Filed By Medicaid Patients Compared With the Proportion of Population Enrolled in Medicaid

Reference	Claim Years	Malpractice Claims Filed by Medicaid Patients: %	Malpractice Claims Filed by Medicaid Patients: claims Denominator	Population Enrolled in Medicaid: %	Population Enrolled in Medicaid: Population Denominator
GAO"	1984	5.8	Sample of closed claims in U.S.	9	Total U.S. population
Michigan[b]	1985-87	6.2	closed claims in Michigan	10-11	Total Michigan population
Maryland[c]	1985 1986	7.2 9.1	Claims filed in Maryland	11.1 10.9	Total Maryland population
Texas[d]	1986-87	3.5	Claims reported by Texas physicians	12	Total patients of surveyed Texas physicians

[a]U. S. Congress, General Accounting Office, Medical Malpractice: Characteristics of Claims Closed in 1984, GAO/HRD-87-55 (Washington, DC: U.S. Government Printing Office, 1987).

[b]State of Michigan, Department of Social Services, Medicaid Matters 3(2), 1989.

[c]Mussman, M. G., Zawistowich, L., Weisman, C. S., et al., "Medical Malpractice Claims Filed by Medicaid and Non-Medicaid Recipients In Maryland, " JAMA 265(22):2992-2994, 1991.

[d]Texas Medical Association, Austin, TX, unpublished data from the Texas Medical Association's 1988 professional Liability Survey, undated.

Table 2--Proportion of Obstetric Malpractice Claims Filed By Medicaid Patients Compared With the Proportion of Obstetric Patients Enrolled in Medicaid

Reference	Claim Years	Obstetric Claims Filed by Medicaid Patients: %	Obstetric Claims Filed by Medicaid Patients: Claims Denominator	Obstetric Patients Enrolled in Medicaid: %	Obstetric Patients Enrolled in Medicaid: Population Denominator
Maryland[a]	1985-86	21	Obstetric claims filed in Maryland	21	Obstetric patients discharged in Maryland
Washington[b]	1982-88	11	Closed obstetric claims of a major insurer in Washington	7.5	Births in Washington cared for by private practitioners
ACOG[c]	1982	24.8	Obstetric claims reported by surveyed U.S. hospitals	17.1	Deliveries reported by surveyed U.S. hospitals
Washington[d]	1986	26	Obstetric claims reported by surveyed Washington obstetric providers	17.6	Total obstetric patients reported by surveyed Washington obstetric providers

[a] Mussman, M. G., Zawistowich, L., Weisman, C. S., et al., "Medical Malpractice Claims Filed by Medicaid and Non-Medicaid Recipients In Maryland, " JAMA 265(22):2992-2994, 1991.

[b] Baldwin L M., Greer, H T., Wu, R., et al., 'Differences in the Obstetric Malpractice Claims Filed by Medicaid and Non-Medicaid Patients, " J Am Board Fam Pract (forthcoming).

[c] Opinion Research Corporation, "Hospital Survey on Obstetric Claim Frequency by Patient Payor Category, " prepared for the American College of Obstetricians and Gynecologists, Washington, DC, 1988.

[d] Rosenblatt, R.A. and Detering, B., "Changing Patterns of Obstetric Practice in Washington State: The Impact of Tort Reform, " Family Medicine, 20(2): 101-107, 1988.

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