

# Operational Policy Letter #44

Department of Health & Human Services

Health Care Financing Administration

Medicare Managed Care

November 25, 1996

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## PHYSICIANS' ADVICE AND COUNSEL TO BENEFICIARIES ENROLLED IN MEDICARE MANAGED CARE PLANS

### Question:

Are Medicare beneficiaries enrolled in managed care plans entitled to advice and counsel by their physician of medically necessary treatment options that may be appropriate for their condition or disease?

### Answer:

**Yes.** Medicare beneficiaries who are enrolled in a Medicare contracting risk or cost plan are entitled to the same benefits that they would be entitled to under the fee-for-service (FFS) program. See section 1876(c)(2)(A) of the Social Security Act.

Among the benefits to which FFS beneficiaries are entitled is advice and counsel from their physician on medically necessary treatment options that may be appropriate for their condition or disease. Beneficiaries enrolled in a Medicare managed care plan are, likewise, entitled to such advice and counsel from their physician.

Consequently, a physician providing care to a Medicare beneficiary under the terms of a risk or cost contract may not be limited in counseling or advising the beneficiary of medically necessary treatment options that may be appropriate for the individual's condition or disease.

Contractual provisions that limit a physician's ability to so counsel or advise a Medicare beneficiary are a violation of the law. Assuring the availability of this benefit to Medicare beneficiaries will be part of HCFA's routine oversight of contracting managed care organizations.

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