



Quintanilla: 'Baby steps' needed to educate public about Medicare rights

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For decades, it has been a rule of thumb for persons receiving Medicare benefits: When they receive physical therapy, speech therapy or occupational therapy, once they begin to "plateau" - that is, when they have not made enough "improvement" or "progress," both subjective assessments - their entitlement to therapy would end. In my family's case, the insurance company doctor applied the plateau to a 91-year-old stroke patient - my mother - days after her December 2013 attack. I fired that doctor on the spot, and I started doing some legal research.

I came upon one of the most important, but little-known federal lawsuits in the history of Medicare: Jimmo vs. Sebelius. As I related in an op-ed I wrote for the Chronicle in July, the Jimmo case was brought by a group of Medicare beneficiaries who had their therapy and skilled nursing care benefits denied due to the "plateau standard." The lawyers who brought the lawsuit worked for the nonprofit foundation, Center for [Medicare Advocacy](#). Because of their work, the plateau standard is no more. But too many people still don't know that.

When I discovered the Jimmo case, I quickly made sure that, upon my mother's transfer to a nursing home for her physical therapy, the director had actual knowledge of the federal lawsuit. I put my mother's insurance company on notice, as well.

Only one of the success stories

Because of the Jimmo case, I have been able to keep my mother's physical and speech therapy ongoing up to this day. She has begun speaking short sentences. She suffered a left-brain stroke, but even now, more than a year since the stroke, she has begun moving her right side. She is beginning to sit up in bed. She kept up with her [San Antonio Spurs](#) games through the Western Conference playoffs and was delighted a few months back when [Spurs center-forward Matt Bonner](#) sent her a get-well message via a Facebook video.

Mom is one of the success stories from Jimmo vs. Sebelius. She isn't the only one, but there should be more.

Unfortunately, there is still much work to be done in educating the public about their rights under the Jimmo decree. As I've told my story via social media and in presentations to groups of senior citizens and advocates for the disabled, I have been stunned to learn of case after case across Texas but also in other states where health-care providers have been completely clueless about patient rights under Jimmo.

I recently made contact with [Judith Stein](#), executive director of the Center for Medicare Advocacy, who shared a similar experience.

"Happily, we hear from people from throughout the country who have been able to obtain nursing and/or therapy services to maintain their conditions that would have been denied prior to the Jimmo settlement," Stein told me. "Unfortunately, we still also hear about people who have been unable to obtain necessary skilled maintenance services."

Ingrained into culture of care

Stein says that many times people are deprived of therapy or skilled nursing care because the subjective nature of medical assessments has been so ingrained into the culture of care for Medicare beneficiaries who face catastrophic illnesses.

"Health care providers are often afraid to submit claims for maintenance care because they are so used to being told that improvement is a prerequisite to Medicare coverage," she said. While the Jimmo settlement has placed the onus on the Centers for Medicare and Medicaid Services to educate health-care providers about the new law of the land, more clearly needs to be done and Stein's organization seeks to do outreach to families like mine whose loved ones need the care to which they're entitled as Medicare beneficiaries.

Education most definitely is the key. I stumbled upon the Jimmo decree by accident while researching another area of Medicare law. When I began invoking it to nursing home staff and with my mother's insurance company, they had never heard about Jimmo. As far as they were concerned, mom must show "improvement," or her benefits would end. To this day, I have a folder full of notices of termination of therapy benefits that have been directed to us whenever mom plateaued in her therapy.

According to Stein, the Jimmo legal team last month heard from many Medicare beneficiaries who continue to be denied benefits. The legal team is collaborating with other groups to do more outreach, such as making the Jimmo doctrine a part of the Medicare web site and handbooks that are distributed nationally.

Change is difficult. But like my mom's neurologist said in summing up the way that progress is made, "baby steps" are all that is required.

"Baby steps" can save your loved one's life.

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