

Contents

<i>List of Figures</i>	<i>page xviii</i>
<i>List of Tables</i>	<i>xix</i>
<i>Acknowledgments</i>	<i>xxiii</i>
<i>List of Acronyms</i>	<i>xxv</i>
1. Introduction	1
PART I. THE MEDICARE PROGRAM	
2. The Medicare Program	9
2.1. Enactment of the Medicare Program	9
2.2. Evolution of the Medicare Program	15
2.2.1. Fee-for-Service or “Original” Medicare	15
2.2.2. Medicare HMOs and Medicare Part C	16
2.2.3. The Medicare Prescription Drug Benefit and Medicare Part D	18
2.3. Design of the Medicare Program	19
2.3.1. Eligibility	19
2.3.2. Benefits	21
2.3.3. Coverage	24
2.3.4. Administration	24
2.3.5. Payment Methods	27
2.3.6. Financing	28
2.4. Contributions of the Medicare Program	28
3. Medicare Policy-Making Processes, Appeals, and Judicial Review	30
3.1. Policy Making under the Medicare Program	30
3.1.1. Predominant Medicare Policy-Making Process	32
3.1.2. Medicare Coverage Policy Making	37

3.1.3. Medicare Payment Policy Making	43
3.1.4. Medicare Fraud and Abuse Policy Making	45
3.2. Appeals	46
3.2.1. FFS Medicare Beneficiary Appeals	46
3.2.2. Grievance Procedures and Appeals for Beneficiaries in MA Plans and PDPs	50
3.2.3. HHS Departmental Appeals Board (DAB)	50
3.3. Judicial Review of Medicare Program Policy and Decisions	51
3.3.1. Bar to Federal Question Jurisdiction under the Social Security Act	52
3.3.2. Judicial Review of Medicare Coverage Policy	54
3.3.3. Statutory Preclusions of Judicial Review of Medicare Payment Policy	56
4. Taming the Growth in Medicare Expenditures	59
4.1. The Challenge of Inflation in Medicare Expenditures	60
4.1.1. Institutional Provider Payment	61
4.1.2. Physician and Other Fee-for-Service Provider Payment	70
4.1.3. Health Plan Payment	74
4.2. The Challenge of the Burgeoning Volume of Medicare Services	75
4.2.1. Retrospective Utilization Review for Institutional Providers	76
4.2.2. Volume Controls for Physicians and Other Fee-for-Service Providers	78
4.3. Prospects for Success	78
5. Improving the Quality of Health Care Services	83
5.1. Enrollment in the Medicare Program	83
5.1.1. Survey and Certification Process for Institutional Providers	84
5.1.2. Enrollment of Physicians and Nonphysician Practitioners	87
5.2. The Advent of Health Services Research	87
5.2.1. The Development of Standards of Care and Quality Measures	90
5.2.2. Health Service Research on Outcomes of Care	91
5.2.3. Total Quality Management, Continuous Quality Improvement, and Patient Safety	92
5.2.4. Small Area Analysis and Geographic Variation in Medicare Spending	93
5.2.5. Social Determinants of Health	94
5.2.6. Translating Medical Research Progress into Better Medical Practice	96

5.3.	Federal Investment in Health Services Research	96
5.3.1.	Early Programs in the Public Health Service	97
5.3.2.	The Agency for Healthcare Research and Quality (AHRQ)	99
5.3.3.	The Early HCFA Quality Initiatives	101
5.3.4.	CMS Quality Improvement Initiative	102
5.3.5.	The Clinical Translational Science Award Program	105
5.4.	Health Information Technology Development	106
5.5.	Prospects for Success	110
6.	Curbing Fraud and Abuse in the Medicare Program	112
6.1.	The Extent of the Problem	113
6.1.1.	False Statements, False Claims, and Kickbacks	116
6.1.2.	Physician Self-Referral	117
6.2.	Legal Prohibitions Regarding Fraud and Abuse	122
6.2.1.	False Claims and False Statements Prohibitions	122
6.2.2.	Antikickback Prohibitions	123
6.2.3.	Physician Self-Referral Prohibitions	125
6.2.4.	Criminal Health Care Fraud	127
6.3.	Remedies	127
6.3.1.	Civil Monetary Penalties Act (CMPA)	128
6.3.2.	False Claims Act	128
6.3.3.	Health Insurance Portability and Accountability Act of 1996 (HIPAA)	129
6.3.4.	Exclusions from Federal Healthcare Programs	131
6.3.5.	Administrative Review and Appeals	132
6.4.	Prospects for Success	132
PART II. THE AFFORDABLE CARE ACT AND THE MEDICARE PROGRAM		
7.	The Affordable Care Act	137
7.1.	Organization of the U.S. Health Care Sector	138
7.1.1.	Private Health Insurance Coverage	138
7.1.2.	Public Health Insurance Program	140
7.1.3.	The Uninsured	141
7.2.	ACA Coverage Expansions and Protections	142
7.2.1.	Title I – Quality, Affordable Health Care for All Americans	142
7.2.2.	Title II – The Role of Public Programs	151
7.2.3.	The Community Living Assistance Services and Support Act	153
7.3.	Other Provisions of the ACA	153
7.3.1.	The ACA and Public Health	153

7.3.2.	The ACA and the Health Care Workforce	155
7.3.3.	Remaining Titles of the ACA	157
7.4.	Prospects for Success	157
7.4.1.	Success of Insurance Market Reforms in Title I	160
7.4.2.	Establishment of State and Federal Exchanges in Title I	160
7.4.3.	Mandates to Participate in the Insurance Marketplaces	163
7.4.4.	Medicaid Expansion and Reforms in Title II	164
7.4.5.	Public Health Reforms in Title IV	165
7.4.6.	Workforce Improvements in Title V	166
8.	Title III: Improving the Quality and Efficiency of Health Care	167
8.1.	Transforming the Health Care Delivery System	167
8.1.1.	Linking Payment to Quality Outcomes under the Medicare Program	168
8.1.2.	Developing a National Strategy to Improve Health Care Quality	169
8.1.3.	Developing New Patient Care Models	171
8.2.	Improving Medicare for Patients and Providers	177
8.2.1.	Ensuring Beneficiary Access to Physician Care and Other Services	177
8.2.2.	Rural Protections	179
8.2.3.	Improving Payment Accuracy	179
8.3.	Provisions Relating to Part C	181
8.4.	Medicare Part D Improvements for Prescription Drug Plans and MA-PD Plans	183
8.5.	Ensuring Medicare Sustainability	186
8.6.	Health Care Quality Improvements	187
8.7.	Protecting and Improving Guaranteed Medicare Benefits	188
8.8.	Prospects for Success	189
9.	Major Initiative under Title III: Value-Based Purchasing of Health Care Services	190
9.1.	The Concept of Value-Based Purchasing	190
9.2.	Getting to Value-Based Purchasing	193
9.2.1.	Inpatient Acute Care Hospitals	195
9.2.2.	Physicians and Other Eligible Professionals	196
9.2.3.	Other Institutional Providers	197
9.3.	Value-Based Purchasing for Inpatient PPS Hospitals	199
9.3.1.	Program Design	199
9.3.2.	Implementation Issues	205

9.4. Value-Based Purchasing for Physicians and Other Health Professionals	206
9.4.1. Improvements to the Physician Quality Reporting System	206
9.4.2. Improvements to the Physician Feedback Program	211
9.4.3. Maintenance of Certification Program (MOCP)	213
9.4.4. Implementation Issues	215
9.5. Value-Based Purchasing for Other Providers	216
9.6. Prospects for Success	216
10. Major Initiatives under Title III: Pilot Programs for Payment and Quality Reform	219
10.1. The Medicare Shared Savings Program	219
10.1.1. Development and Implementation of ACOs	220
10.1.2. Program Design	221
10.1.3. Administrative Issues	227
10.1.4. Current Models of ACOs	228
10.2. National Pilot Program for Payment Bundling	229
10.2.1. Getting to the Pilot on Payment Bundling	229
10.2.2. The Pilot Program	230
10.2.3. Administrative Issues	233
10.3. Community Health Teams to Support Medical Homes	234
10.3.1. Getting to the Medical Home Pilot	235
10.3.2. Demonstration Design	236
10.4. Prospects for Success	238
10.4.1. The Shared Savings Program	239
10.4.2. The National Pilot Program for Payment Bundling	242
10.4.3. The Medical Home Pilot Demonstration	243
11. Title VI: Improving Transparency and Program Integrity	244
11.1. Physician Ownership of Specialty Hospitals	244
11.1.1. The Rationale for the Prohibitions	245
11.1.2. Requirements to Qualify for Whole Hospital or Rural Provider Exceptions	246
11.1.3. Exception to Prohibition on Expansion of Facility Capacity	248
11.1.4. Collection of Ownership and Investment Information	248
11.1.5. Enforcement	249
11.2. Transparency and Reporting Requirements for Physicians and Industry	249

11.2.1.	The Problem of Conflicts of Interest	249
11.2.2.	Transparency and Reporting of Physician Ownership and/or Investment Interests	253
11.2.3.	Disclosure Requirements for Physician Ownership of Imaging Services	258
11.2.4.	Reporting Requirements for Gifts of Prescription Drug Samples	258
11.2.5.	Transparency Requirements for Pharmacy Benefit Managers (PBMs)	258
11.3.	Nursing Home Transparency and Improvement	259
11.3.1.	Problems with Nursing Home Quality and Safety	260
11.4.	Subtitle D – Patient-Centered Outcomes Research	263
11.5.	Medicare, Medicaid, and SCHIP Program Integrity Provisions	264
11.5.1.	Provider Screening and Other Enrollment Requirements under Medicare	264
11.5.2.	Enhanced Medicare and Medicaid Program Integrity Provisions	265
11.5.3.	Elimination of Duplication between HHS Data Banks	267
11.5.4.	Miscellaneous Program Integrity Provisions	267
11.5.5.	Expansion of the Recovery Audit Contractor (RAC) Program	268
11.6.	Prospects for Success	270
11.6.1.	Physician Ownership and Transparency	270
11.6.2.	Nursing Home Transparency and Improvement	271
11.6.3.	Medicare, Medicaid, and CHIP Program Integrity Provisions	272
12.	Major Initiative under Title VI: The Patient-Centered Outcomes Research Institute	274
12.1.	The Road to Comparative Effectiveness Research	275
12.2.	Patient-Centered Outcomes Research Institute	278
12.2.1.	Key Definitions	278
12.2.2.	Purpose of the PCORI	279
12.2.3.	Duties	279
12.2.4.	Institutional Design, Governance, and Administration	283
12.2.5.	Dissemination and Building Capacity for Research	285
12.2.6.	Limitations on Use of Comparative Effectiveness Research	287
12.2.7.	Establishment and Funding of the Patient-Centered Outcomes Research Trust Fund (PCORTF)	288

12.3.	Prospects for Success	290
12.3.1.	Challenges for Patients	293
12.3.2.	Challenges for Physicians	294
12.3.3.	Challenges for Payers	297
12.3.4.	Challenges for Pharmaceutical and Medical Device Manufacturers	298
PART III. THE FUTURE OF MEDICARE IN A GLOBAL CONTEXT		
13.	The Impact of the Affordable Care Act on the Medicare Program	305
13.1.	Reforming the Medicare Program in the ACA	308
13.2.	Medicare as a Single Payer for Universal Coverage	312
13.2.1.	Necessary Steps	314
13.2.2.	Remaining Issues for Resolution	317
13.2.3.	Interest in a Single-Payer System	318
13.3.	The Burden of Ideology in Health Reform	319
14.	The Historical Foundations for Public Health Coverage in the United Kingdom, Canada, and the United States	322
14.1.	Constitutional Arrangements	323
14.1.1.	The Police Power and Federalism	324
14.1.2.	Impact of Federalism and Location of the Police Power over Health Policy	330
14.2.	Economic Conditions Following World War II	333
14.2.1.	United Kingdom	333
14.2.2.	Canada	334
14.2.3.	United States	335
14.3.	The Rhetoric of Health Reform in the United Kingdom, Canada, and the United States	336
15.	The Health Care Systems of the United Kingdom, Canada, and the United States	340
15.1.	Health Care in the United Kingdom	340
15.1.1.	Enactment of the National Health Service for England and Wales	341
15.1.2.	Evolution of the National Health Service for England and Wales	343
15.2.	Health Care in Canada	347
15.2.1.	Canadian Health Care in the Postwar Period	348
15.2.2.	Enactment and Evolution of Publicly Sponsored Health Insurance	349

15.3.	The Saga of Health Reform in the United States	354
15.3.1.	American Health Care in the Postwar Period	354
15.3.2.	Enactment of Public Health Insurance Programs at the State and Federal Levels	355
15.3.3.	American Health Care in the 1980s and 1990s	356
15.3.4.	Health Reform in the Twenty-First Century	357
16.	The United Kingdom, Canada, and the United States Compared	359
16.1.	Comparative Health Sector Performance	359
16.2.	Stakeholders and Their Influence	363
16.2.1.	Physicians	364
16.2.2.	Hospitals	371
16.2.3.	Private Health Insurers	372
16.2.4.	Pharmaceutical and Medical Device Manufacturers and Suppliers	373
16.3.	Mechanisms for Social Control of Stakeholders	374
16.3.1.	Collegiality	374
16.3.2.	Hierarchy	375
16.3.3.	The Market	376
17.	Convergence on Pragmatic Health Reform Strategies for Common Problems	379
17.1.	Common Solutions for Common Problems	380
17.1.1.	Enhancing Primary Care Delivery While Accommodating Integrated Specialty Care	382
17.1.2.	Coordinating Health Care Services across Provider Sites	387
17.1.3.	Getting Better Value for Payment	389
17.1.4.	Addressing Health Disparities	391
17.1.5.	Refocusing Health Care Delivery on Population Health	392
17.2.	Common Tools for Health Reform	393
17.2.1.	Health Services Research in Canada and the United Kingdom	394
17.2.2.	Adoption and Use of Information Technology	396
17.2.3.	The Promise of Comparative Effectiveness Research	398
17.3.	The Centrist Consensus	399
18.	Entrepreneurship in Health Care	401
18.1.	The Concept of Entrepreneurism	402
18.1.1.	Conventional, For-Profit Entrepreneurship	402

18.1.2. Social Entrepreneurship	403
18.1.3. Institutional Entrepreneurship	405
18.2. Entrepreneurship in Health Care	406
18.2.1. Productive Entrepreneurship	409
18.2.2. Unproductive/Destructive Entrepreneurship in Health Care	413
18.3. The Principle of Social Responsibility	416
18.4. Opportunities for Productive Entrepreneurship in the ACA	419
18.4.1. Opportunities in Title I	420
18.4.2. Opportunities in Title II	420
18.4.3. Opportunities in Title III	420
18.4.4. Opportunities in Title IV	421
18.4.5. Opportunities in Title V	421
18.4.6. Opportunities in Title VI	422
18.5. Entrepreneurship in the United Kingdom and Canada	424
<i>Epilogue</i>	427
<i>Index</i>	429