

THE WALL STREET JOURNAL.

MEDICARE UNMASKED

Doctors Cash In on Drug Tests for Seniors

BY CHRISTOPHER WEAVER AND ANNA WILDE MATHEWS

TUESDAY, NOVEMBER 11, 2014

Doctors are testing seniors for drugs such as heroin, cocaine and “angel dust” at soaring rates, and Medicare is paying the bill.

It is a roundabout result of the war on pain-pill addiction.

Medical guidelines encourage doctors who treat pain to test their patients, to make sure they are neither abusing pills nor failing to take them, possibly to sell them.

Now, some pain doctors are making more from testing than from treating.

Spending on the tests took off after Medicare cracked down on what appeared to be abusive billing for simple urine tests. Some doctors moved on to high-tech testing methods, for which billing wasn't limited.

They started testing for a host of different drugs — including illegal ones that few seniors ever use — and billing the federal health program for the elderly and disabled separately for each substance.

Medicare's spending on 22 high-tech tests for drugs of abuse hit \$445 million in 2012, up 1,423% in five years.

The program spent \$14 million that year just on tests for angel dust, or PCP. Sue Brown, a laboratory director in Brunswick, Ga., said she has never seen someone over 65 test positive for angel dust, in 25 years in the business.

For dozens of pain doctors, Medicare payments for drug testing have eclipsed their income from treating patients, a Wall Street Journal analysis of 2012 billing data shows. The billing data for 880,000 providers were released in April after a long legal effort by the Journal.

In Raleigh, N.C., pain specialist Robert Wadley started doing high-tech drug tests in his office in 2010 with equipment he installed there. Drug testing accounted for 82% of



'Drug testing is how I pay the bills,' said Robert Wadley, a Raleigh, N.C., pain specialist and lab owner.

his medical practice's Medicare payments in 2012.

"Urine drug testing is how I pay the bills," Dr. Wadley said.

As his case shows, even though laboratories perform most drug tests, there are ways doctors themselves can be reimbursed, including by doing the tests right in their offices. Dr. Wadley is among doctors who have purchased devices called mass-spectrometry machines that can count the precise number of particles of different substances in a urine sample. Other doctors become laboratory owners or benefit indirectly from arrangements made with labs.

Dr. Wadley in 2011 helped launch a business that does tests for other physicians. The firm, AvuTox LLC, has routinely tested Medicare patients' specimens for more than three-dozen separate drugs, billing for each. The drugs range from pain pills to MDMA, or "ecstasy," and its chemical cousin MDEA, or "eve," the billing data and company documents show.

AvuTox was paid an average of \$1,265 per Medicare patient in 2012, nearly double the average of 108 other labs where a majority of Medicare revenue related to drug tests. In its second year in business, AvuTox became the tenth-biggest recipient of Medicare drug-test payments, \$7.3 million. At his medical practice, Dr. Wadley received \$1.4 million for drug tests on his own patients.

Many medical experts say high-tech drug tests should generally be used only to confirm results from cheaper, low-tech screenings.

Routinely testing specimens for many different drugs is a red flag because "it would seem like it might be without regard to the patient's medical condition," said Andrea Treese Berlin, a lawyer at the federal Health and Human Services Department's inspector general's office.

Dr. Wadley said he believes the tests he and AvuTox have done were medically necessary. He also said testing for a broad range of drugs makes sense because it means less risk of missing substance-abusers, and high-tech tests are more accurate.

The doctor said he didn't know that AvuTox billed Medicare for more tests than many competitors. "There are probably some things we've stumbled [over]" as a newer firm, he said.

The drug-testing boom follows an earlier effort to curb heavy billing by Medicare providers. It shows how such an effort can backfire.

Four years ago, Medicare officials capped payments for

simple screenings, including test strips that change color when exposed to drugs in urine.

Doctors had been billing \$20 for each class of drug they tested for this way, such as amphetamines or benzodiazepines. Medicare capped the payment at about \$20 per specimen. It put a \$100 cap on a slightly more complex test.

Yet overall payments for drug testing actually accelerated. The reason: Some doctors switched to high-tech testing methods with fewer billing restrictions, chiefly mass spectrometry.

The shift is “a great example of the creativity that results under [Medicare’s] payment system,” which encourages

doctors to choose more lucrative services and perform more of them, said Mark McClellan, a Medicare chief under President George W. Bush. “The technologies keep changing rapidly, and it results in this game of Whac-A-Mole,” Dr. McClellan said.

Medicare pays separately for each substance that high-tech testers look for. Cocaine tests pay up to \$21 on average. Hydrocodone, an active ingredient of the prescription drugs Vicodin and Lortab, pays \$29.

Officials at the federal Centers for Medicare and Medicaid Services, in a document laying out some proposed changes to lab-service payments,

recently said they “are concerned about the potential for overpayment when billing for each individual drug test.” The agency is “evaluating public comments on our proposal and expects to make a final decision” soon, a CMS spokeswoman said.

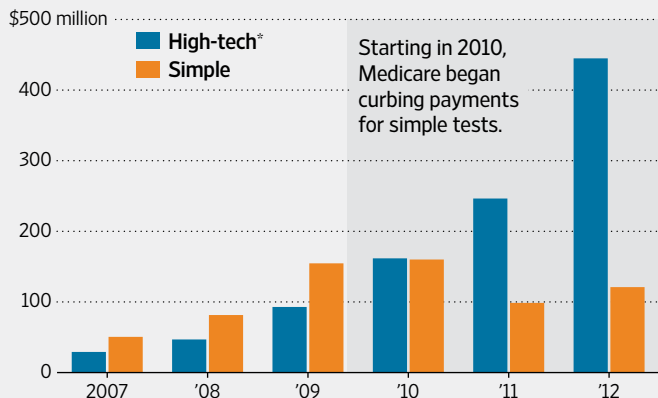
Medicare also pays for high-tech tests for substances that aren’t specified in its fee schedule, such as ecstasy. For each, it pays about \$25.

Use of such club drugs by older people is extremely rare,

The Testing Game

Doctors shifted to costlier, high-tech urine drug tests that can be lucrative for medical practices and laboratories after Medicare set rules to limit payments for cheaper, simple tests. Some pain specialists have made a niche business of high-tech drug testing.

Cost to Medicare by test type



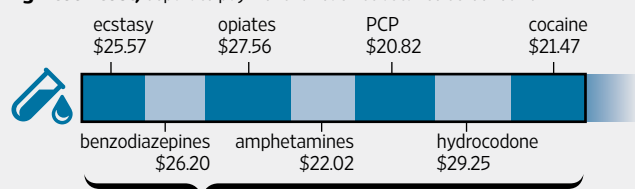
How Medicare pays[†]

Simple test, one payment per specimen



Medicare pays **\$20.60** for simple drug screening using test strips to check any number of substances. Before 2010, doctors could get that for each drug class checked.

High-tech test, separate payment for each substance screened for



Medicare would pay **\$172.89**, for a test covering these seven substances. Doctors often test for many more drugs, resulting in higher payments.

^{*}Includes 22 Medicare drug testing services [†]Prices are for 2012. Payments were lower in some states. Source: Centers for Medicare and Medicaid Services The Wall Street Journal

doctors say. Even counting marijuana, only about one of 1,000 seniors abuse or are addicted to illicit drugs, according to a 2012 survey by the federal Substance Abuse and Mental Health Services Administration.

Dr. Wadley said AvuTox found at least nine patients who tested positive for ecstasy and 16 for angel dust between March and September, though he didn't know whether it had detected any such drugs in seniors. He said AvuTox does the same tests on all patients' specimens to avoid discriminating based on age.

In rare cases, doctors might have good reason to test for many different drugs, said Daniel Duvall, chief medical officer for Medicare's Center for Program Integrity. But, he said, "the most creative [drug testers] are clearly getting into billing abuse."

The need for vigilance against prescription-drug abuse is real, public health experts say. U.S. overdose deaths involving "opioid" painkillers such as OxyContin, Vicodin and Percocet have risen rapidly. They exceeded 16,000 in 2010, according to the Centers for Disease Control and Prevention.

Said Gilbert Fanciullo, chief of pain medicine at Dartmouth-Hitchcock Medical Center in Hanover, N.H.: "There is a compelling public health need to do urine drug testing — and there's an enormous profit motive to overdo" it.

One major drug-test biller to Medicare was also a big prescriber of pain medicine. Fathalla Mashali, a Massachusetts pain specialist, received \$2.8 million in drug-test reimbursements from Medicare in 2012 — more than any other single doctor — mostly for bills he submitted for doing high-tech tests in his office.

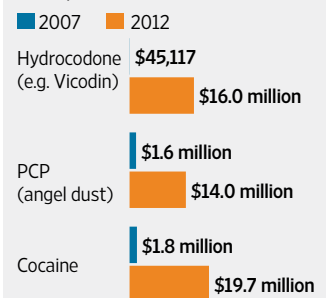
Dr. Mashali was arrested in February after former colleagues told investigators he had prescribed opioids for people "who were clearly drug-seekers," according to a Federal Bureau of Investigation agent's affidavit in a criminal case later filed against him. Dr. Mashali has pleaded not guilty to federal health-care-fraud charges, including allegations of billing for office visits that didn't happen. His attorney, Jeff Denner, said that his client "has broken no criminal laws" and that a jury trial is anticipated.

Some labs encourage doctors to refer more patient specimens for drug testing by giving physicians an ownership stake or cut of test revenue, according to doctors and documents from several labs.

The HHS inspector general has pursued several cases

Costly Screening

Medicare payments for high-tech tests that detect specific drugs, including pain pills and illegal substances like cocaine and PCP, have soared in recent years. Some examples:



Source: Centers for Medicare and Medicaid Services
The Wall Street Journal

involving drug testing recently. In one, Kentucky firm PremierTox 2.0 LLC settled a federal civil suit alleging that two doctors who were part owners of the lab referred specimens to it for testing that wasn't medically justified. The lab and doctors agreed to pay \$15.75 million.

An attorney for PremierTox, Robert Bertram, said a billing company working for it made errors, and PremierTox settled, without admitting liability, "to stay in business" after Medicare and Medicaid payments were suspended.

Dr. Wadley's AvuTox lab benefited both from Medicare's system of paying separately for each substance checked and from arrangements that could encourage more test-prescribing.

AvuTox agreed to test doctors' non-Medicare patients for dozens of drugs, with the doctors paying a flat fee. Then the doctors could bill private insurers for the testing, profiting from any reimbursement above what they paid AvuTox, said a company promotional document.

This deal could bring doctors an extra \$96,000 a year, the document said.

"AvuTox can increase the level of patient care while growing your practice revenues," its website said. That language disappeared after the Journal asked about it.

Such flat-fee deals can be legal, so long as they don't involve Medicare patients. Even so, they can incentivize doctors to bill for more tests overall, including to Medicare, some experts say.

"If you're giving a big discount for private pay [to doctors who] are still referring Medicare," they may refer more samples overall, said Jane Pine Wood, a lawyer who represents labs and doctors who own labs.

Dr. Wadley said that "there is no increase in costs to the payers." In any case, AvuTox stopped offering that type of arrangement in April, he said, explaining that "it was a side show we didn't want to get mixed up with." AvuTox is focused on fast, high-quality testing, he added.

Dr. Wadley, 56 years old, said it was after seeing patients' laboratory bills that he got the idea of doing high-tech drug tests himself. "We thought, 'Why not bring that internal?'" he said in an interview at his flagship clinic, Brier Creek Integrated Pain & Spine.

He teamed up with a toxicologist, Phil Radford, who responded to an online job posting. The two met over dinner to discuss offering drug-testing services, Dr. Radford said, then set up high-tech equipment in Dr. Wadley's practice.

Soon, other doctors started asking if the operation could

do their tests as well. In early 2011, the two formed AvuTox in a low-slung medical office in Rocky Mount, a Raleigh ex-urb. Dr. Radford said the name “AvuTox” echoes a question that might be asked of doctors: “Have you tox[ed] your patients?” Dr. Wadley bought out Dr. Radford in 2013.

AvuTox began testing urine specimens sent to it for a wide range of drugs. Its standard panel included tests for 44 different substances, according to a former sales representative and copies of requisition forms. Dr. Wadley said the firm recently expanded the panel.

Three doctors said AvuTox representatives encouraged them to agree that every specimen they sent would be tested for many drugs. “They said ‘we think it is reasonable to confirm everything’ “ with high-tech tests, said James Skeen, a Pinehurst, N.C., pain specialist who used the lab until February. “I never thought there was another option” beyond the standard panel, he said.

Dr. Wadley said doctors “can order whatever they want.” He said for the standard panel, AvuTox typically received about \$800 from Medicare.

Dr. Skeen said the size of the bills some of his Medicare patients brought in for AvuTox tests “raised my eyebrows ... when I was getting paid \$75” for a typical pain treatment.

AvuTox and Dr. Wadley’s medical practice both tested specimens for an average of 17 substances for which Medicare has no specific billing code, six times the lab-industry average.

Dr. Wadley said billing for a broad range of drugs can protect doctors from legal liability as law enforcement and medical boards scrutinize opioid prescribing.

Elaine Jeter, a medical director at Medicare contractor Palmetto GBA, said big test panels created by testing firms “encourage unnecessary and excessive testing when no clinical cause exists.”

Palmetto, which processes claims in Virginia, West Virginia and the Carolinas, has proposed a new policy in which firms that routinely do high-tech tests for panels of 40 drugs or more wouldn’t be able to bill for each individually, but would get a single flat payment that wouldn’t go up if more substances were added. It would still be possible to bill separately for smaller numbers of tests in some circumstances. The policy is scheduled to go into effect in mid-December.

Dr. Wadley has supported such a change, over more-onerous restrictions that Palmetto had considered. He sent Dr. Jeter a letter in May that backed the proposed change.

“I said, ‘You guys pay too much,’” he recalled.