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Theresa C. Mahfood 1

The discovery of the first curative HCV drug, Sovaldi, revolutionized treatment regimens for patients of varying genotypes suffering from HCV infection, giving hope to millions throughout the world infected with the deadly virus. However, the high price of Sovaldi made it unlikely that many of the patients who are expected to benefit most from the drug's efficacy would receive treatment. This disparity in obtaining Sovaldi, between low-income and high-income patients, led to an ethical quandary as to how to distribute the drug. While the public condemned Sovaldi's manufacturer, Gilead Sciences, for setting Sovaldi's price so high, evidence suggests that Gilead did not act unethically. Rather, the evidence suggests that the price of Sovaldi can be ethically justified, in part, by its uniquely high quality, and explained in part by legal constructs in the United States that result in burden to insurance companies and lead pharmaceutical companies to set high drug prices to counteract substantial losses during the research and development process.

What to Expect When You're Expecting. . .TANF-Style Medicaid Waivers

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The Trump administration and a number of like-minded states are seeking to impose, for the first time in the history of the program, work requirements and other, more stringent "personal responsibility" requirements on certain Medicaid beneficiaries. This article uses evidence from the imposition of similar requirements in Temporary Aid for Needy Families ("TANF"), the cash welfare program for impoverished Americans, to consider what may happen if such requirements are imposed in Medicaid. It is clear that work requirements and, in some cases, time limits were correlated with a sharp and rapid reduction in TANF rolls. However, it is less clear why that was the case. Substantial flexibility at state and even local levels in implementing and policing policies, differing family circumstances among TANF recipients, and fluctuations in the economy and in other federal support programs for the working poor affected the impact of TANF policies on program take-up and continuation. They also made it more difficult to disambiguate the

effects of different policies. One might expect to see similar issues if such changes are also made to Medicaid.

What is Reasonable and What Can Be Proved as Reasonable: Reflections on the Role of Evidence-Based Medicine and Clinical Practice Guidelines in Medical Negligence Claims

Sira Grosso 74

Evidence of the breach of duty is the crux of medical malpractice litigation, and uncertainty reigns regarding what should be considered the due level of care. According to some scholars, this uncertainty has fueled the practice of defensive medicine. Consequently, some proposals to define the medical standard of care purport to abate defensive medicine. This article discusses why merely modifying the standard of care would not reduce defensive medicine. However, since the legal definition of the standard of care may influence physicians' course of action, this article discusses and proposes in what the reasonable standard of care employed by the legal system should consist.

In this article, I analyze why "customary practice" is an inappropriate criterion on which to base the legal standard of care, and thereby, to determine whether a physician acted reasonably, under a substantial and procedural point of view. I explore why the truly "reasonable physician" is the one who adopts an evidence-based approach and, thus, why evidence based medicine ("EBM") should be the golden reasonable standard of care. Keeping into due account that medical malpractice decision-makers – the jurors and the judge - are not medical experts, I suggest a way to translate the medical lexicon, so as to be effectively understood by lay people. The article conceptually separates the standard of care authorized by substantive law from the standard's evidence in court. In this sense, what is reasonable expresses a different concept from what can be proved as such in a court of law.

In this frame, I suggest a wider and influential use in court of Clinical Practice Guidelines ("CPGs") as one, despite not the only one, expression of EBM. Because CPGs are not without certain flaws, I propose a method for scrutinizing guidelines for reliability, focusing on these tools' underlying knowledge and sources.