



CASE # 2001-13  
NOVEMBER 2001

## Joe Stoddard Medical Marketing and Personal Privacy

Joe Stoddard was a certified public accountant. He was in good health. He was an avid runner, exercised regularly and went for regular health testing. His company offered a comprehensive health plan through Amalgamated Medical Services and he spent extra premiums for full health coverage for himself and his wife and two children. He considered himself to be contentious and responsible about matters regarding health.

One day, he received a letter addressed generically to "Amalgamated Medical Services Member." The letter (see appendix A) was an invitation to learn more about Amalgamated's "support and information about cardiac conditions." As he read further, he became more alarmed at what he saw as an invasion of his privacy. The letter explained that "Your Care Specialist will build a personalized care plan for your special circumstances so that you can better understand your condition." The words, *your condition*, leapt off the page at him. This was not a generic letter, he realized. Amalgamated Medical Services had targeted him specifically. "It was news to me that I even had a 'condition'," he ranted to his wife. "The only condition I have is to be quite concerned about why I was being targeted by my health plan."

Joe was furious. As he thought about the sequence of events from the stress test through to the letter, he pieced together a plausible chronology. About eight months earlier he had requested a stress test as a precaution for a new workout program. He had begun to ramp up his running regimen towards the goal of running in the Boston Marathon - a lifelong dream of his. A prior employer had required that all employees take such tests regularly so he felt it was a good idea to continue this practice. When taking the test, he had signed a standard release form, one which he thought gave permission to the doctor to release information to the health plan, but only for the purposes of obtaining reimbursement for the medical services provided. Then again, he admitted, he had never read all the fine print in the release form. He guessed that the test had been used as the basis for the marketing of this "service" although he was having trouble calling it such.

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He started making phone calls to the health plan management company, to the firm to which the health plan had outsourced certain services, and to his employer. First, he obtained a copy of the release form he signed at the doctor's office. It read:

*I understand that my signature below requests that payment be made by my insurance company to Dr. Greenbaugh and authorizes release of medical information necessary to pay the claim. I authorize this claim to be submitted electronically or on a universal insurance claim form and to read "signature on file."*

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Next, he learned that his employer had initiated a “disease state management program” and that he had been targeted for this program because of the stress test. "But the stress test results indicate no cardiac or other abnormalities," he protested. "So, why am I receiving a letter that states that I am at risk? Someone or some system believes that I have a 'condition'. And I don't like that.”

His wife questioned his fervor. "Oh Joe, let it rest. Think of them as providing useful information about your health. You are someone who is conscientious about your health. They are just providing a public service." Joe was unconvinced. "I'm willing to assume that everyone involved in the development and marketing of the disease state management program had good intentions," he said, "But there is a serious invasion of privacy here, one which I cannot simply let stand."

A colleague also suggested Joe back off, teasing, "Go for it Don Quixote<sup>1</sup>. You'll never get anywhere. This isn't a person making this decision. It is a system, a machine, one that will not be stopped by one person like you. In the end, all you are going to do is increase your blood pressure and create the 'condition' they are talking about!"

But Joe was adamant. "I have an obligation to everyone to call attention to this practice. Maybe I won't get anywhere against the 'machine' of the health care system. But if no one ever speaks up, then we deserve this slow erosion into our private lives." He set out on a personal crusade to get the answers to some questions that he felt were at the core of his concern.

1. Who made the decision to target people with certain conditions?
2. Who decided that identifying people who had taken certain tests, without considering the results of those tests, could determine the target population?
3. What other marketing initiatives might make use of these data?
4. What other firms or organizations received data about my medical history?

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<sup>1</sup> Don Quixote is the hero of Cervantes' romantic novel, *Don Quixote de la Mancha*, who was inspired by lofty and chivalrous but impractical ideals.

5. Does the standard release form used by doctors and hospitals to obtain reimbursement provide any legal recourse to the patient if the patient's medical information is used for other purposes?
6. Did the use of individual medical data for marketing a new service violate long-standing ethical obligations that doctors have to protect the confidentiality of their patients' medical records?

First, consider Joe's concern for community standards of privacy versus the personal effort he will expend to protect them. Isn't Amalgamated providing a useful service, targeting customers who may have a particular need? Is this any different than a marketing firm attempting to determine your purchasing preferences through Internet use or spending patterns? Or is it an invasion of privacy, a betrayal of doctor/patient confidentiality? On what criteria do you base your answer?

Second, how much effort should Joe expend to fight against the "machine," as he calls it, of the health care system? Would you counsel him to fight against the system for everyone's sake and get the company to change its practices? Would you counsel him to fight for himself and have his own records protected? Or, would you counsel him to drop the effort entirely as futile? Where does he draw the line between his sense of responsibility to the community and to his own personal time?

## Appendix A

Dear Amalgamated Medical Services Member:

We would like to introduce you to **Prudent Care** - the program that provides support and information about cardiac conditions. This service is provided to you at no charge. It is a benefit of Amalgamated Medical Services PPO, and is open to all Plan members and their dependents.

Prudent Care has many special features:

- Your own personal Care Specialist
- Personalized counseling about your specific condition
- Information when you need it
- Help achieving your health goals
- An individualized care plan addressing nutrition, exercise & other areas
- Educational materials
- Access to appropriate community resources
- Access to recorded information on over 700 health & medical topics

Your personal Care Specialist will work one-on-one with you to help better manage your chronic condition. Care Specialists are highly trained registered nurses dedicated to helping you optimize your health. They provide counseling and information based on a broad array of health and wellness resources, supported by state-of-the-art technology. They will take time to listen to your specific situation and help you tailor a strategy that works within your unique circumstances. They will work with you over a period of time to make behavioral changes that improve your well being at a pace that is comfortable for you.

Your Care Specialist will build a personalized care plan for your special circumstances so that you can better understand your condition. You will learn how to avoid situations that could lead to a medical crisis and understand various treatment options that may help you prevent or minimize future complications. This service does not replace the care your physician is providing to you; your personal Care Specialist will work with your physician to coordinate your care.

As a member of Amalgamated Medical Services PPO, you also have access to online health information. Simply log on to the Internet, and go [www.xxx.com](http://www.xxx.com). Once at this web site, enter your Log In "yyyyy". Then you can select the online service that you would like to access.

To learn more about the Prudent Care program, please call 1-800-888-8888.

Amalgamated Medical Services PPO