

Legal Concerns Hinder Adoption of Gainsharing

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New York Bureau

Hospitals are reluctant to offer physicians a portion of the savings generated by reducing clinical costs—a concept known as gainsharing—because of legal fears, D. McCarty Thornton said during an audioconference on gainsharing sponsored by the Integrated Healthcare Association.

“It’s clear, I think, that gainsharing is not

on the fast track,” said Mr. Thornton, a partner with the law firm of Sonnenschein, Nath, and Rosenthal LLP, based in Washington.

In the long run, gainsharing approaches that can save money without affecting patient care are likely to take hold, he said, but first hospitals need clarification from Congress, the Health and Human Services secretary, and the Office of Inspector General about what arrangements are allowed.

In 1999, the HHS Office of Inspector General issued a special advisory bulletin saying that the civil monetary penalty provision of the Social Security Act prohibits most gainsharing arrangements. Under that provision, hospitals are prohibited from making payments to physicians to reduce or limit services to Medicare and Medicaid beneficiaries.

The bulletin said that these types of arrangements could also trigger the anti-kickback provisions of the Social Security

Act, which prohibit arrangements used to influence the referral of patients in federal health care programs.

“Historically, the office has been somewhat leery of gainsharing arrangements,” said Catherine A. Martin, OIG senior counsel.

Since the 1999 bulletin, the OIG has issued several advisory opinions that outline gainsharing arrangements that would be allowable. In general, in order to give the green light to a gainsharing arrangement, the OIG looks for transparency and accountability, quality of care controls, and safeguards against kickbacks, Ms. Martin said.

In order to be transparent, any actions taken to save costs need to be clearly and separately identified and fully disclosed to patients. Hospitals must also put in place controls to ensure that cost savings do not

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But the OIG is not the only regulator that hospitals and physicians need to consider when embarking on gainsharing arrangements, Ms. Martin said. Hospitals and physicians must also keep from running afoul of the Stark self-referral prohibitions, which fall under the purview of the Centers for Medicare and Medicaid Services. In addition, gainsharing arrangements must meet Internal Revenue Service rules, and hospitals are at risk for private lawsuits, she said.

But the industry is keeping an eye on two demonstration projects that test the gainsharing concept in the Medicare fee-for-service program. Both projects are set to begin this year.

The first project, which is required under the Deficit Reduction Act of 2005, will involve six hospitals and will focus on quality and efficiency for inpatient episodes and during the 30-day postdischarge period.

The DRA provision waives civil monetary penalty restrictions that would otherwise prohibit gainsharing.

The second project will focus on physician groups and integrated delivery systems and their affiliated hospitals. The demonstration will include inpatient episodes, as well as the pre- and posthospital care over the duration of the project. This demonstration was mandated by the Medicare Modernization Act of 2003.

Participants in both demonstrations will be required to standardize quality and efficiency improvement initiatives, internal cost savings measurement, and physician payment methodology, said Lisa R. Waters, a project officer with the division of payment policy demonstrations at CMS.

PROVIGIL® (modafinil) TABLETS [C-IV]

BRIEF SUMMARY: Consult Package Insert for Complete Prescribing Information

CONTRAINDICATIONS: Known hypersensitivity to PROVIGIL or its inactive ingredients.

WARNINGS: Patients with abnormal levels of sleepiness who take PROVIGIL should be advised that their level of wakefulness may not return to normal. Patients with excessive sleepiness, including those taking PROVIGIL, should be frequently reassessed for their degree of sleepiness and, if appropriate, advised to avoid driving or any other potentially dangerous activity. Prescribers should also be aware that patients may not acknowledge sleepiness or drowsiness until directly questioned about drowsiness or sleepiness during specific activities.

PRECAUTIONS: **Diagnosis of Sleep Disorders:** PROVIGIL should be used only in patients who have had a complete evaluation of their excessive sleepiness, and in whom a diagnosis of either narcolepsy, OSAHS, and/or SWSD has been made in accordance with ICD-9 or DSM diagnostic criteria. Such an evaluation usually consists of a complete history and physical examination, and it may be supplemented with testing in a laboratory setting. **CPAP Use in Patients with OSAHS:** In OSAHS, PROVIGIL is indicated as an adjunct to standard treatment(s) for the underlying obstruction. If continuous positive airway pressure (CPAP) is the treatment of choice for a patient, a maximal effort to treat with CPAP for an adequate period of time should be made prior to initiating PROVIGIL. If PROVIGIL is used adjunctively with CPAP, the encouragement of and periodic assessment of CPAP compliance is necessary. **General:** Patients should be cautioned about operating an automobile or other hazardous machinery until they are reasonably certain that PROVIGIL therapy will not adversely affect their ability to engage in such activities. **Patients Using Contraceptives:** The effectiveness of steroidal contraceptives may be reduced when used with PROVIGIL and for one month after discontinuation. Alternative or concomitant methods of contraception are recommended during and for one month after discontinuation of PROVIGIL. **Cardiovascular System:** In clinical studies of PROVIGIL, signs and symptoms including chest pain, palpitations, dyspnea and transient ischemic T-wave changes on ECG were observed in three subjects in association with mitral valve prolapse or left ventricular hypertrophy. It is recommended that PROVIGIL tablets not be used in patients with a history of left ventricular hypertrophy or in patients with mitral valve prolapse who have experienced the mitral valve prolapse syndrome when previously receiving CNS stimulants. Such signs may include but are not limited to ischemic ECG changes, chest pain, or arrhythmia. Patients with a recent history of MI or unstable angina should be treated with caution. Blood pressure monitoring in short-term controlled trials showed no clinically significant changes in mean systolic and diastolic blood pressure in patients receiving PROVIGIL, as compared to placebo. However, a greater proportion of patients on PROVIGIL required new or increased use of antihypertensive medications (2.4%) compared to patients on placebo (0.7%). The differential use was slightly larger when only studies in OSAHS were included, with 3.4% of patients on PROVIGIL and 1.1% of patients on placebo requiring such alterations in the use of antihypertensive medication. Increased monitoring of blood pressure may be appropriate in patients on PROVIGIL.

Central Nervous System: There have been reports of psychotic episodes associated with PROVIGIL use. One healthy male volunteer developed ideas of reference, paranoid delusions, and auditory hallucinations in association with multiple daily 600 mg doses of PROVIGIL and sleep deprivation. There was no evidence of psychosis 36 hours after drug discontinuation. Caution should be exercised when PROVIGIL is given to patients with a history of psychosis. **Patients with Severe Renal Impairment:** Treatment with PROVIGIL resulted in much higher exposure to its inactive metabolite, modafinil acid, but not PROVIGIL itself. **Patients with Severe Hepatic Impairment:** PROVIGIL should be administered at a reduced dose because its clearance is decreased. **Elderly Patients:** Elderly patients may have diminished renal and/or hepatic function; therefore, dosage reduction should be considered. **Information for Patients:** Physicians are advised to discuss the following with patients taking PROVIGIL. PROVIGIL is indicated for patients who have abnormal levels of sleepiness. PROVIGIL has been shown to improve, but not eliminate this abnormal tendency to fall asleep. Therefore, patients should not alter their previous behavior with regard to potentially dangerous activities (eg, driving, operating machinery) or other activities requiring appropriate levels of wakefulness, until and unless treatment with PROVIGIL has been shown to produce levels of wakefulness that permit such activities. Patients should be advised that PROVIGIL is not a replacement for sleep. Patients should be informed that it may be critical that they continue to take their previously prescribed treatments (eg, patients with OSAHS receiving CPAP should continue to do so). Patients should be informed of the availability of a patient information leaflet, and they should be instructed to read the leaflet prior to taking PROVIGIL. **Pregnancy:** Patients should notify their physician if they become pregnant or intend to become pregnant during therapy. They should be cautioned of the potential increased risk of pregnancy when using steroidal contraceptives (including depot or implantable contraceptives) with PROVIGIL and for one month after discontinuation of therapy. **Nursing:** Patients should notify their physician if they are breast feeding. **Concomitant Medication:** Patients should inform their physician if they are taking or plan to take any prescription or over-the-counter drugs, because of the potential for drug interactions. **Alcohol:** It is prudent to avoid alcohol while taking PROVIGIL. **Allergic Reactions:** Patients should notify their physician if they develop a rash, hives, or a related allergic phenomenon. **Drug Interactions: CNS Active Drugs:** In a single-dose study, simultaneous administration of PROVIGIL 200 mg with methylphenidate 40 mg delayed the absorption of PROVIGIL by approximately one hour. In a single-dose study, simultaneous administration of PROVIGIL 200 mg with dextroamphetamine 10 mg delayed absorption of PROVIGIL by approximately one hour. Coadministration of a single dose of clomipramine 50 mg with PROVIGIL 200 mg/day did not affect the pharmacokinetics of either drug. One incident of increased levels of clomipramine and its active metabolite desmethylclomipramine has been reported. In the drug interaction study between PROVIGIL and ethinyl estradiol (EE₂), on the same days as those for the plasma sampling for EE₂ pharmacokinetics, a single dose of triazolam 0.125 mg was also administered. Mean C_{max} and AUC_{0-∞} of triazolam were decreased by 42% and 59%, respectively, and its elimination half-life was decreased by approximately an hour after the modafinil

treatment. In the absence of interaction studies with monoamine oxidase (MOA) inhibitors, caution should be exercised. **Other Drugs:** No significant changes in the pharmacokinetics of warfarin occurred in healthy subjects given one dose of warfarin 5 mg following chronic administration of PROVIGIL. However, more frequent monitoring of prothrombin times/INR is advised when PROVIGIL is coadministered with warfarin. PROVIGIL once daily 200 mg/day for 7 days followed by 400 mg/day for 21 days decreased ethinyl estradiol C_{max} and AUC₀₋₂₄ by a mean 11% and 18% with no apparent change in the elimination rate. One interaction between PROVIGIL and cyclosporine has been reported in a 41-year-old female. After one month of PROVIGIL 200 mg/day, cyclosporine blood levels decreased by 50%. Dosage adjustment for cyclosporine may be needed. **Potential Interactions with Drugs That Inhibit, Induce, or are Metabolized by Cytochrome P-450 Isoenzymes and Other Hepatic Enzymes:** In primary human hepatocytes, PROVIGIL slightly induced CYP1A2, CYP2B6 and CYP3A4 in a dose-dependent manner. *In vitro* experiments do not necessarily predict response *in vivo*; caution should be exercised when PROVIGIL is coadministered with drugs that are metabolized by enzymes. In human hepatocytes, PROVIGIL produced a dose-related suppression of CYP2C9 activity suggesting a potential for metabolic interaction between PROVIGIL and substrates of this enzyme (eg, S-warfarin and phenytoin). In healthy volunteers, chronic PROVIGIL treatment had no significant effect on single-dose pharmacokinetics of warfarin vs placebo. In human liver microsomes, PROVIGIL and modafinil sulfone reversibly inhibited CYP2C19. Both compounds combined could produce sustained partial enzyme inhibition. Drugs largely eliminated via CYP2C19 metabolism, such as diazepam, propranolol, phenytoin (also via CYP2C9) or S-mephenytoin may have prolonged elimination with PROVIGIL coadministration and may require dose reduction and monitoring for toxicity. CYP2C19 provides ancillary metabolism of some tricyclic antidepressants (eg, clomipramine and desipramine) primarily metabolized by CYP2D6. In tricyclic users deficient in CYP2D6, CYP2C19 metabolism may be substantially increased. PROVIGIL may elevate tricyclics in this patient subset. A reduction in tricyclic dose may be needed. Due to partial involvement of CYP3A4 elimination of PROVIGIL, coadministration of potent inducers of CYP3A4 (eg, carbamazepine, phenobarbital, rifampin) or inhibitors of CYP3A4 (eg, ketoconazole, itraconazole) could alter modafinil plasma levels. **Carcinogenesis, Mutagenesis, Impairment of Fertility: Carcinogenesis:** The highest dose studied in carcinogenesis studies represent 1.5 times (mouse) or 3 times (rat) the maximum human daily dose of 200 mg on a mg/m² basis. There was no evidence of tumorigenesis associated with PROVIGIL administration in these studies, but because the mouse study used an inadequate high dose below that representative of a maximum tolerated

dose, the carcinogenic potential in that species has not been fully evaluated. **Mutagenesis:** There was no evidence of mutagenic or clastogenic potential of PROVIGIL. **Impairment of Fertility:** PROVIGIL was administered orally to male and female rats prior to and throughout mating and gestation at up to 23 times the recommended human dose of 200 mg/day on a mg/m² basis with no effect on fertility. **Pregnancy: Pregnancy Category C:** PROVIGIL administered orally to pregnant rats throughout the period of organogenesis caused, in the absence of maternal toxicity, an increase in resorptions and an increased incidence of hydrocephalus and skeletal variations in the offspring at a dose of 200 mg/kg/day (10 times the recommended human dose of 200 mg/day on a mg/m² basis) but not at 100 mg/kg/day. However, in a subsequent study of up to 480 mg/kg/day (23 times the recommended human dose on a mg/m² basis), which included maternally toxic doses, no adverse effects on embryofetal development were seen. PROVIGIL administered orally to pregnant rabbits throughout the period of organogenesis at doses up to 100 mg/kg/day (10 times the recommended human dose on a mg/m² basis) had no effects on embryofetal development. However, in a subsequent study in pregnant rabbits, increased resorptions, and increased alterations in fetuses from a single litter (open eye lids, fused digits, rotated limbs), were observed at 180 mg/kg/day (17 times the recommended human dose on a mg/m² basis), a dose that was also maternally toxic. PROVIGIL administered orally to rats throughout gestation and lactation at doses up to 200 mg/kg/day (10 times the recommended human dose on a mg/m² basis), had no effects on the postnatal development of the offspring. There are no adequate and well-controlled studies in pregnant women. PROVIGIL should be used during pregnancy only if the potential benefit justifies the potential risk to the fetus. **Labor and Delivery:** The effect of PROVIGIL on labor and delivery in humans has not been systematically investigated. **Nursing Mothers:** It is not known whether PROVIGIL or its metabolites are excreted in human milk. Caution should be exercised when PROVIGIL is administered to a nursing woman.

PEDIATRIC USE: Safety and effectiveness in individuals below 16 years of age have not been established. Leukopenia has been reported in pediatric patients taking PROVIGIL. **GERIATRIC USE:** Safety and effectiveness in individuals above 65 years of age have not been established.

ADVERSE REACTIONS: PROVIGIL has been evaluated for safety in over 3500 patients, of whom more than 2000 patients with excessive sleepiness associated with primary disorders of sleep and wakefulness were given at least one dose of PROVIGIL. In clinical trials, PROVIGIL has been found to be generally well tolerated and most adverse experiences were mild to moderate. The most commonly observed adverse events (≥5%) associated with the use of PROVIGIL more frequently than placebo-treated patients in the placebo-controlled clinical studies in primary disorders of sleep and wakefulness were headache, nausea, nervousness, rhinitis, diarrhea, back pain, anxiety, insomnia, dizziness, and dyspepsia. In the placebo-controlled clinical trials, 8% of the 934 patients who received PROVIGIL discontinued due to an adverse experience. The most frequent reasons for discontinuation that occurred at a higher rate for PROVIGIL than placebo patients were headache

(2%), nausea, anxiety, dizziness, insomnia, chest pain, and nervousness (each <1%). The incidence of adverse experiences that occurred at a rate of ≥1% and were more frequent in patients treated with PROVIGIL than in placebo patients in the principal trials are listed below. Consult full prescribing information on adverse events. **Body as a Whole:** Headache, back pain, flu syndrome, chest pain, chills, neck rigidity **Cardiovascular:** Hypertension, tachycardia, palpitation, vasodilatation **Digestive:** Nausea, diarrhea, dyspepsia, dry mouth, anorexia, constipation, abnormal liver function, flatulence, mouth ulceration, thirst **Hemic/Lymphatic:** Eosinophilia **Metabolic/Nutritional:** Edema **Nervous:** Nervousness, insomnia, anxiety, dizziness, depression, paresthesia, somnolence, hyperemia, dyskinesia, hyperkinesia, agitation, confusion, tremor, emotional lability, vertigo **Respiratory:** Rhinitis, pharyngitis, lung disorder, epistaxis, asthma **Skin/Appendages:** Sweating, herpes simplex **Special Senses:** Amblyopia, abnormal vision, taste perversion, eye pain **Urogenital:** Urine abnormality, hematuria, pyuria **Dose Dependency:** In the placebo-controlled clinical trials the only adverse events that were clearly dose related were headache and anxiety. **Vital Sign Changes:** While there was no consistent change in mean values of heart rate or systolic and diastolic blood pressure, the requirement for antihypertensive medication was slightly greater in patients on PROVIGIL compared to placebo. **Weight Changes:** There were no clinically significant differences in body weight change in patients treated with PROVIGIL compared to placebo-treated patients. **Laboratory Changes:** Mean plasma levels of gamma glutamyltransferase (GGT) and alkaline phosphatase (AP) were higher following administration of PROVIGIL, but not placebo. Few subjects, however, had GGT or AP elevations outside of the normal range. Shifts to higher, but not clinically significantly abnormal, GGT and AP values appeared to increase with time on PROVIGIL. No differences were apparent in alanine aminotransferase, aspartate aminotransferase, total protein, albumin, or total bilirubin. **ECG Changes:** No treatment-emergent pattern of ECG abnormalities was found in placebo-controlled clinical trials following administration of PROVIGIL.

Postmarketing Reporting: The following adverse reactions have been identified during post-approval use of PROVIGIL. Because these reactions are reported voluntarily from a population of uncertain size, it is not always possible to reliably estimate their frequency or establish a causal relationship to drug exposure. Decisions to include these reactions in labeling are typically based on one or more of the following factors: (1) seriousness of the reaction, (2) frequency of the reporting, or (3) strength of causal connection to PROVIGIL. **Central Nervous System:** Symptoms of psychosis, symptoms of mania **Dermatologic:** Rare reports of serious skin reactions (including suspected cases of both erythema multiforme and Stevens-Johnson syndrome) **Hematologic:** Agranulocytosis **Hypersensitivity:** Urticaria (hives), angioedema

DRUG ABUSE AND DEPENDENCE: Abuse Potential and Dependence: In addition to its wakefulness-promoting effect and increased locomotor activity in animals, in humans, PROVIGIL produces psychoactive and euphoric effects, alterations in mood, perception, thinking and feelings typical of other CNS stimulants. *In vitro*, PROVIGIL binds to the dopamine reuptake site and causes an increase in extracellular dopamine, but no increase in dopamine release. PROVIGIL is reinforcing, as evidenced by its self-administration in monkeys previously trained to self-administer cocaine. In some studies, PROVIGIL was also partially discriminated as stimulant-like. Physicians should follow patients closely, especially those with a history of drug and/or stimulant (eg, methylphenidate, amphetamine, or cocaine) abuse. In individuals experienced with drugs of abuse, PROVIGIL produced psychoactive and euphoric effects and feelings consistent with other scheduled CNS stimulants (methylphenidate). Patients should be observed for signs of misuse or abuse. **Withdrawal:** Following 9 weeks of PROVIGIL use in one US clinical trial, no specific symptoms of withdrawal were observed during 14 days of observation, although sleepiness returned in narcoleptic patients.

OVERDOSE: Human Experience: In clinical trials, a total of 151 protocol-specified doses ≥1000 mg/day (5 to 8 times the recommended daily dose of 200 mg) have been administered to 32 subjects, including 13 subjects who received doses of 1000 or 1200 mg/day for 7 to 21 consecutive days. In addition, several intentional acute overdoses occurred; the two largest being 4500 mg and 4000 mg taken by two subjects participating in foreign depression studies. None of these study subjects experienced any unexpected or life-threatening effects. Adverse experiences that were reported at these doses included excitation or agitation, insomnia, and slight or moderate elevations in hemodynamic parameters. Other observed high-dose effects in clinical studies have included anxiety, irritability, aggressiveness, confusion, nervousness, tremor, palpitations, sleep disturbances, nausea, diarrhea, and decreased prothrombin time. From post-marketing experience, there have been no reports of fatal overdoses involving PROVIGIL alone (doses up to 12 grams). Overdoses involving multiple drugs, including PROVIGIL, have resulted in fatal outcomes. Symptoms most often accompanying PROVIGIL overdose, alone or in combination with other drugs have included insomnia, restlessness, disorientation, confusion, excitation, hallucination, nausea, diarrhea, tachycardia, bradycardia, hypertension, and chest pain. Cases of accidental ingestion/overdose have been reported in children as young as 11 months of age. The highest reported accidental ingestion on a mg/kg basis occurred in a three-year-old boy who ingested 800-1000 mg (50-63 mg/kg) of PROVIGIL. The child remained stable. The symptoms associated with overdose in children were similar to those observed in adults. **Overdose Management:** No specific antidote to the toxic effects of PROVIGIL overdose has been identified. Overdoses should be managed with primarily supportive care, including cardiovascular monitoring. Emesis or gastric lavage should be considered. There are no data to suggest the utility of dialysis or urinary acidification or alkalinization in enhancing drug elimination. The physician should consider contacting a poison-control center on the treatment of any overdose.

Manufactured for: Cephalon, Inc., West Chester, PA 19380

For more information about PROVIGIL, please call Cephalon Professional Services at 1-800-896-5855 or visit our Website at www.PROVIGIL.com

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