ACO’s: Overview and Infrastructure Issues

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ACOs Arrive

• 1899 of Social Security Act added by the ACA enacted the Shared Savings Program
  ▪ Most of ACA focused on coverage and insurance.
  ▪ ACOs intended to address care delivery reform
    ➢ Fragmented care
    ➢ Uneven quality
    ➢ Unsustainable fee-for-service payment method

• States, commercials and providers share same goals and concerns
The ACO Landscape: All Payor Trend?

• Medicare shared savings is only one model.
• Rapidly growing interest among commercial payors.
• Premier Collaborative illustrates one provider response.
• All models involve complex legal, contractual and infrastructure build-out.
The Challenge for All ACOs

• No tested, clear path to savings/quality.
• All variations have major start up costs.
  - IT systems
  - Process improvements
  - Additional personnel
• Upstream and downstream contracts.
• All payor model spreads costs.
What is your ACO’s strategy?

• How and why will an ACO reduce costs and improve quality?
  ▪ Case management—better discharge planning
  ▪ DM—improve care/self care for high risk patients
  ▪ Guidelines aimed at potentially avoidable complication
  ▪ Care transitions—hospital to SNF
  ▪ Unnecessary ER visits
  ▪ Provider selection/de-selection
• Physician Group Practice demo reports.
“Must haves” for any strategy

• An ACO must have enterprise-wide the capability to:
  ▪ Manage risk/costs
  ▪ Use, disclose and manage information
  ▪ Provide improved care management
  ▪ Manage new liabilities facing ACOs

• For each capability, various state and federal laws may apply.
Medicare ACOs

- Medicare has proposed rules that describe its ACOs to include:
  - Eligibility, governance and accountability
  - Terms of a three year agreement
  - Assignment of beneficiaries
  - Quality and other reporting
  - How to calculate shared savings
Highlights of the Medicare Proposed Rules

• Eligibility and governance
  ▪ Any form of legal entity.
  ▪ Governing body of ACO participants
    ➢ Including Medicare beneficiaries
    ➢ Executive management
    ➢ Clinical management
    ➢ Sufficient PCPs
    ➢ Evidence based medical practice
    ➢ Full scope compliance plan
Highlights of the Medicare Proposed Rules

• Financial highlights include
  ▪ Setting a benchmark/baseline
  ▪ Attributing claims based on PCPs
  ▪ Tracking for minimum savings rate
  ▪ One sided risk with limited reward
  ▪ Two sided risk with larger reward
  ▪ Beneficiary freedom of choice/leakage
  ▪ Quality pay for performance
Highlights of the Medicare Proposed Rules

• Quality performance
  ▪ Five domains—65 measures
    ➢ Patient/caregiver experience
    ➢ Care coordination
    ➢ Patient safety
    ➢ Preventive health
    ➢ At risk populations/frail elderly

• Quality payment based upon performance score.
Highlights of the Medicare Proposed Rules

• ACOs must insure that their physicians participate in PQRS
• ACOs must insure that at least 50% of their primary care physicians are “meaningful users” of EHRs.
  ▪ If percentage drops below 50%, CMS may terminate the ACO.
Highlights of the Medicare Proposed Rules

• Sharing CMS data
  ▪ Aggregate data—de-identified data
  ▪ Periodic reports on:
    ➢ Financial performance
    ➢ Quality performance
    ➢ Utilization data
    ➢ Metrics on assigned beneficiary population
Highlights of the Medicare Proposed Rules

• Antitrust
• Long-standing barrier to provider networks
  ▪ Must provide market share analysis
  ▪ 30% or lower is deemed acceptable
  ▪ 30 to 50 is questionable
  ▪ 50% and above requires agency review
• ACOs with CMS contracts are deemed to be clinically integrated—for Medicare.
Other federal laws that may apply to your ACO

- Medical loss ratio rules on capitation
- HIPAA privacy, security and transactions
- Meaningful use/EHR certification rules
- ERISA preemption—Shannon v McNulty
- Telephone Consumer Protection Act
Reactions to Medicare Proposed Rules

- AHA/McManis study forecast start up coast at $11M to $26M
  - CMS at $1.8M based on PGPD
- AMGA polled members and 93% said they would not apply.
- Industry believes that proposed rules are just too complex and burdensome.
Pennsylvania regulation of commercial ACOs

- PPO rules on:
  - “share in gains or losses”
  - “fixed payment set in advance”
  - exclusive networks
- Act 68 rules on
  - delegation of financial risk
  - medical management
  - guaranteed access.
- Consents for highly sensitive health information.
- NP/PA scope of practice regulations.
Does the ACO Involve Risk?

- Does your ACO involve risk?
  - “Insurance” or incidence risk is regulated.
  - “Performance” activities not considered risk.
- Risk transfer in PA requires an insurance license or delegation agreement with a Plan.
- Is there insurance risk in “shared savings,” bundled budgets, PMPM, episode of care?
  - Is provider A at risk for the outcomes of provider B?
  - Are Plan’s payments risk adjusted?
Infrastructure to manage costs.

- “Risk” management tools include:
  - Enterprise-wide revenue cycle management.
    - Need to license, hard to build.
    - Will your payor agree to timely reports?
  - Episode grouper software to allocate costs to providers and profile efficiency.
    - Need to license—Ingenix, Medstat.
    - Does it work? Ask NY AG.
  - Don’t forget to implement 5010 and ICD-10?
Some HIT Infrastructure Essentials

- Clinical information systems
  - EHRs—certified? Interoperable?
  - HIE—or comparable connectivity
  - Care registries—who maintains, how connected?
- Patient Identify Integrity
  - No enumeration standard—how to allocate and track claims and quality reports?
- Performance measures-EHR have several
  - Are they relevant to your strategy?
  - Who maintains electronic specifications?
Care Management Infrastructure

• Medical homes
  ▪ no all payor payment support
  ▪ may generate new consent/privacy issues by integrating behavioral health services/records

• HIE consent issues remain unresolved

• Provider selection and de-selection

• DM programs raise issues on enrollment consents, HIPAA authorizations, business associate relationships.
ACOs must manage liabilities

- Corporate negligence for care management.
- Liability for de-selection.
- Wide array of contractual indemnifications
- Financial guarantees.
A few recommendations

- Business plan—cost of implementation
- Skin in the game
- D&O insurance
- Withholds and real risk
- How to unwind?
Questions?

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