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## HEALTHCARE

### 10-Steps for Physicians to Survive the 2015 Accountable Care Act

By Matt Kinley, Esq., Partner, Tredway Lumsdaine & Doyle LLP

In 2015, physicians will find themselves facing new challenges and policies related to the Accountable Care Act (ACA), which reforms healthcare by changing payment systems. Instead of traditional, pay-for-service models, new systems will pay physicians for value provided to patients. To remain viable, physicians must transform their practice to utilize new payment systems to their advantage.

Payment for value means that physicians will be rewarded for quality of care, superior technology and clear communication. Physicians will also have to be prepared to see more patients while being compensated less per patient.

Physicians who wish to succeed under the 2015 ACA should follow these guidelines:

#### 1. Practice with New-Fangled Payment Systems

Physicians will need to modify their practice so they can provide patient-centered care for an increasing number of patients. The ACA's most direct affect on healthcare will occur through Health Benefits Exchanges. According to its own policies, Covered California has expressed its goal to "dramatically alter California's healthcare payment system" by utilizing "value based reimbursement" systems. These systems include Accountable Care Organizations (ACO) and patient-centered, team-based approaches to healthcare. To support this, Medicare instituted the Shared Savings Program and other pay-for-performance payments.

The Exchange will modify payment systems through the Qualified Health Plans (QHP) it contracts with, requiring it to produce value-based systems. Physicians who agree to qualified plans will see more patients, with less reimbursement. Under the ACA's Value-Based Payment Modifier Program, physician payment will be adjusted based on the quality and cost of the care they provide. By 2017, this modifier will be implemented for all physicians. Participating physicians may receive bonuses or be penalized up to one percent based on quality and cost scores. Physicians who choose not to participate will be docked one percent.

#### 2. Utilize Technology

One way physicians can treat more patients and create the data to demonstrate quality of treatment is to invest in better technology. Physicians must be able to utilize electronic health records (EHR) to succeed under Exchange contracts.

Physicians will have to familiarize themselves with "meaningful use" — a set of criteria on which they must report to receive federal incentive payments for EHR adoption under the Medicare and Medicaid EHR Incentive Programs. Meaningful use also is the necessary foundation for all impending payment changes involving patient-centered medical homes, ACOs, bundled payments and value-based purchasing. Physicians who do not demonstrate meaningful use by 2015 will be subject to Medicare payment penalties which will increase from one to five percent by 2017. Medicare's e-prescribing program provides incentive payments for physicians who e-prescribe and payment penalties for those who do not. Continued failure to comply with requirements will result in greater penalties in the future.

#### 3. Hire Mid-Level Professionals

For physicians operating under Exchange plans, volume will be the name of the game. The ACA rewards physicians who utilize non-physician professionals, such as nurse practitioners and physician

assistants, to help treat patients, increase communication and lower costs. Physicians must be prepared to create procedures and policies for their practice that effectively train and prepare assistants to meet with patients.

#### 4. Consolidate

With some exceptions, physicians of the future will be in larger organizations that will effectively deal with delivery reform, including standardized care, coordination of care, health information technology, data accumulation and shared savings. Successful practices will find ways to consolidate and obtain partners to help them comply with these new requirements.

#### 5. Address Patient Financial Responsibility

Policies under the QHP require physicians to collect co-payments and deductibles from patients. Many patients under these plans have little experience with utilizing medical services and making such payments so physicians should consider educating their patients and developing payment collection strategies. Physicians may even give a prompt payment discount to patients who pay within a certain time period.

#### 6. Be Prepared for Out-of-Network Claims

Physicians must be familiar with the QHP procedures, even if they don't operate under them. Policies require that most care be within network, but out-of-network payments can still be obtained. Payments for out-of-network are the "usual, customary and reasonable" amount for the area. In order to obtain payment, care must be well-documented and the physician must be well-versed in practice to collect.

#### 7. Understand Grace Periods

The ACA allows Exchange plan enrollees to receive premium subsidies to have an unpaid premium balance for three months before termination. During the grace period, physicians will not be paid for services if the patient fails to pay for his or her premium. To be paid, physicians must implement a policy to check insurance eligibility of each patient.

#### 8. Refer Only to In-Plan Physicians

Physicians are required by QHP contracts to refer only to in-network physicians, unless they obtain health plan permission first. Physicians are required to provide written notice to patients when referring to a non-network provider for non-emergency services and hold the patient "harmless" from charges should the QHP not pay for out-of-network services.

#### 9. Reporting

The Physician Quality Reporting System (PQRS) is a voluntary program that provides incentives to eligible professionals reporting data on quality measures for services provided to Medicare beneficiaries. Physicians must report on three individual measures or one measures group to receive a 0.5 percent bonus. Physicians participating in a maintenance-of-certification program are eligible for an extra 0.5 percent bonus, for a total of one percent.

In the 2012 Medicare Physician Fee Schedule, Centers for Medicare & Medicaid Services

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announced that 2015 program penalties will be based on 2013 performance. Therefore, physicians who did not successfully report on at least one individual measure in 2013, or elect to participate in the administrative claims reporting option, will receive a 1.5 percent payment penalty in 2015. The penalty goes up to two percent in 2016 and beyond.

### **10. Establish an Effective Financial Strategy**

Establishing a strong financial strategy will be an imperative measure all practices will need in order to adapt to ACA regulations. By hiring revenue consultants, staying on top of fee schedules and accurately predicting utilization costs, physicians will streamline to a lower cost model and move away from fee-for-service.

The result of the ACA will be a system that attempts to improve value by creating larger organizations with a team-oriented approach to patient care by utilizing a team of primary care physicians, specialists and mid-level professionals. Technology, quality metrics and reporting will all be of paramount importance.

#### ***About the Author:***

*Matt Kinley is a partner at Tredway Lumsdaine & Doyle LLP a longstanding Southern California-based law firm providing a full range of legal services to privately held companies and individuals. With more than 25 years of experience, Kinley is chair of the firm's healthcare law practice and regularly advises physicians to help them maintain a successful practice in a changing environment. His focus includes: matters related to federal and state regulatory compliance, licensing and certificates, Medical Board representation, Medicare and Medicaid law and audit representation, managed care contracting and disputes, fraud and abuse issues, referral disputes, unique healthcare employment issues, HIPAA compliance, creations and mergers and acquisition of healthcare practices. Contact Kinley at [MKinley@tldlaw.com](mailto:MKinley@tldlaw.com) or call 877-923-0971.*