PHI IN THE ACO

Risk Management, Mitigation and Data Collection Issues

Online Tech Webinar
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Tatiana Melnik, Attorney
Melnik Legal PLLC

Carrie Nixon, Attorney, CEO
Nixon Law Group
Healthcare Solutions Connection

Melnik Legal | NIXON LAW GROUP | HSC

Outline

1. Why the move to the ACO model?
2. What is an ACO?
3. A few early successes
4. Where does the patient fit?
5. What role does technology play?
6. Minimizing and mitigating legal risks

Why the ACO Model?

- Current system unsustainable
  - Baby Boomers
  - Much inefficiency in the system
    - Defensive Medicine
  - Incentivizing the wrong things
    - Fee for service vs. fee for providing quality care
    - Rewards unnecessary tests and treatments
- Move to Accountable Care Organizations
  - Integration → Lower fees → Better care
  - How?
    - Match incentives with outcomes

Why the ACO Model?

- Current system unsustainable
  - Baby Boomers

> "I think Americans would be surprised if not appalled if they knew the degree to which treatment took place every day in this country in the absence of all the relevant information necessary to care for the patient"
>
> Michael Schatzlein, CEO, Saint Thomas Health (quoted by CIO Asia)

  - How?
    - Match incentives with outcomes

A Fundamental Change

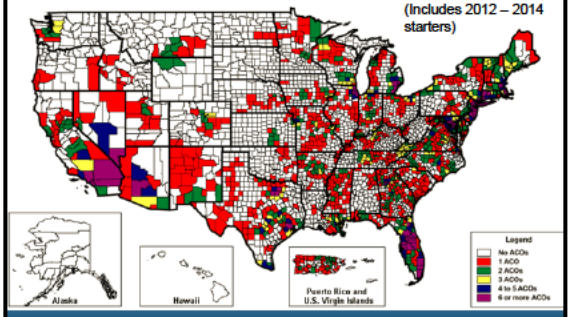
- Shift **away** from traditional Fee-For-Service model
- Movement **towards** accountable, patient-centered care with the goal of achieving the "Triple Aim:"
  - *Better care for individuals*
  - *Better health for populations*
  - *Lower per capita costs*
- Through Accountable Care Organizations

What is an ACO?

*"An **alliance** of physicians, hospitals and other providers that **coordinates care** for a particular **group of patients** to **improve quality** and **reduce costs**."*

NCQA Definition of ACO

Geographic Distribution of MSSP ACO Assigned Patient Population



Source: Laura Dash & Terri Postma, MSSP Accountable Care Organization, CMS, Medicare Learning Network (April 8, 2014)

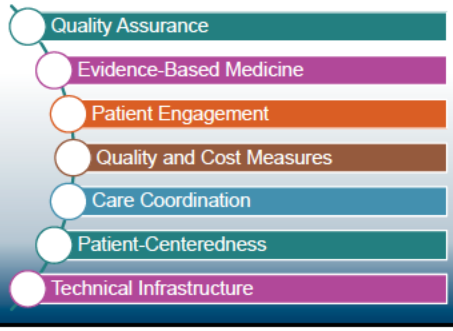
ACO Requirements

- Distinct legal entity
- Medicare-reimbured providers/suppliers with T.I.N.
- Minimum of 5,000 Medicare FFS beneficiaries assigned by CMS
- 3-year agreement with CMS
- Committ to be accountable for quality and cost of overall care

ACO Application Process

- Prospective Medicare ACO must apply with CMS for certification ("MSSP ACO")
- CMS does **not** accept all applicants!
- Beneficiary assignment
  - Initially assigned by CMS using data from the most recent four quarters prior to ACO start
  - CMS updates list on a rolling four-quarter basis
  - Final assignment made retrospectively at year-end

ACO Commitments



How Does Shared Savings Work?

- CMS establishes benchmark by estimating what Medicare FFS expenditures would have been for that population in absence of ACO
- Models
  - **One-sided**: share savings up to 50%, based in part on quality performance score
  - **Two-sided**: share savings up to 60%, but also share losses

The Pioneer ACOs

- Started in 2011 with 32 ACOs
- In 2012
- 13 Pioneers qualified for shared savings bonuses totaling $76 million
- 2 Pioneers qualified for shared savings losses of approximately $4 million
- $87.6 million in gross savings
- Quality results uniformly positive
- In 2013, 7 switched to regular MSSP program, 2 dropped out entirely

Early Success Stories

- Montefiore Medical Center
- Heartland Regional Medical Center
- RGV ACO Health Providers
- Interim results for first year savings for 2012 ACOs
  - 27 achieved savings
  - 2 achieved two-sided savings
  - 2 incurred losses

Importance of the Patient

- Vision of the Shared Savings Program
  - ACOs will promote the delivery of seamless, coordinated care that promotes better care, better health, and lower growth in expenditures by:
    - **Putting the beneficiary and family at the center**
    - **Remembering patients over time and place**
    - **Attending carefully to care transitions**
    - **Managing resources carefully and respectfully**
    - **Managing the beneficiary's care proactively**
    - **Evaluating data to improve care and patient outcomes**
    - Using innovations focused on the three-part aim
    - Investing in care teams and their workforce

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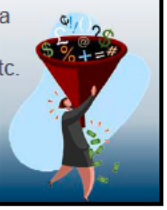
Focus on Quality

- 33 Quality Performance Measures in four domains:
  - Patient/Caregiver Experience (7)
  - Care Coordination/Patient Safety (6)
  - Preventive Health (8)
  - At-Risk Population (12)
- ACO MUST report all measures in an area to meet quality performance requirements
- Passing rate = 70%

Importance of Technology

- Having *and analyzing* the data is the key to the success of an ACO
  - To report on quality measures, data must be collected
  - To improve patient outcomes, data must be analyzed and shared across the providers, suppliers, etc. to enable improvement



Importance of Technology

- IT Challenges
  - Organizations have limited resources
  - Clinical Decision Support Systems >> FDA continues to evaluate regulations
  - EHR, PHR, etc. = Interoperability concerns
  - All the pieces must work together
    - optimize preventive and chronic disease care
    - improve care coordination
    - make effective use of automation (without crossing barriers such as copy/paste issues)
    - engage patients in their own care
    - monitor provider/supplier quality of care
    - evaluate the ACO's performance on cost and quality indicators

Legal risks

- The usual suspects
  - Antitrust
  - Stark
  - Anti-kickback
  - Civil monetary penalties
- But…5 possible waivers
- Medical Malpractice

Legal Risks

- Criminal penalties for Medicare/Medicaid fraud
  - High government priority
  - Increased enforcement
    - CFO in Texas indicted in January 2014
  - Birds of a feather?
    - Is everyone participating in the ACO at risk?

Legal Risks

- Privacy and security risks
  - Sharing data among all participants
  - OCR settlement with New York and Presbyterian Hospital and Columbia University – "affiliation agreement"
    - NYP – settlement $3.3M
    - CU – settlement $1.5M
  - Ponemon Report (2014)
    - Average per capita cost of data breach over two years for healthcare - $359 (industry average $201)
    - Average total organizational cost of data breach over two years - $5.85M

Mitigating Risks

- Governance and leadership
- Choosing the "right" partners
- Data, data, data!
- Information technology
- Patient Safety Organizations (while do not include ACOs, other structures available to take advantage of benefits)

Mitigating Risks

- Properly structured contracts
  - Organization
    - What form will be used (*e.g.*, integrated delivery networks, PHO, IPA, etc.)
  - Risk sharing
    - How are the participants to be held accountable?
  - Data breach concerns on the rise
- Ongoing performance monitoring and reporting
- In the end, cannot succeed without great leadership

Disclaimer

This slide presentation is informational only and was prepared to provide a brief overview of Accountable Care Organizations and related concerns. It does not constitute legal or professional advice.

You are encouraged to consult with an attorney if you have specific questions relating to any of the topics covered in this presentation.

Any Questions?

Tatiana Melnik
Melnik Legal PLLC
734.358.4201
tatiana@melniklegal.com

Carrie Nixon
Nixon Law Group
Healthcare Solutions Connection
703.795.9763
carrie.nixon@nixonlawgroup.com