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INDEPENDENT PHYSICIAN PRACTICES: COVID-19 STIMULUS ACTS UNLIKELY TO BE A PANACEA

BY: Dr. Terry McWilliams

SUMMARY FOR HEALTH SYSTEMS

The COVID Relief Acts and the Medicare Accelerated and Advanced Payment Program are all temporizing measures. More questions than answers remain for most independent practices. What we do know is that we cannot make up for lost time. The time associated with canceled elective procedures and rescheduled in-office patient appointments cannot be reclaimed. The net effect will be a realized loss of revenue and the road to rebuild will be a long one. One where not all independent practices will be able to sustain the current losses and re-emerge on the other side of this pandemic. Deciding whether to try to keep operations going for as long as possible or to close temporarily or to close permanently are real decisions practices are making every day. Some providers who planned to retire in the next year are opting to retire now – further impacting the ability to meet patient needs during the pandemic and after.

Some providers who contemplated employment before are seriously considering it now – and approaching health systems, large employed networks, or private equity firms with employment requests in the midst of these stressful times. **Health systems must be proactive in addressing these providers and their practices to ensure services are not disrupted once routine and elective care again becomes a reality.**

This article summarizes the current Federal measures through the lens of the independent physician practice and provide our outlook on the longer-term impact on these providers and perhaps the industry. This information is vital to these practices, but also to the health systems that rely on their support to meet community need and to sustain system viability.

STIMULUS ACTS SUMMARY

As the global population continues its efforts to pivot and adjust to manage the COVID-19 pandemic, the microcosm of small businesses in the United States are looking for a lifeline in the many Federal stimulus packages recently passed. Specific to our focus is the "small" business of independent physician practices and the unique impact this pandemic has on them. While on one hand, physicians and advanced practice providers have been called to the front lines, they are also often business owners, grappling with the reality that revenue generating procedures have been put on hold, jeopardizing not only their livelihood but potentially the future existence of their medical practice.

March 2020 will most likely enter history books as the month the United States government committed to spending well over $2 trillion to keep individuals and businesses financially afloat during the fight with a global pandemic.

Emergency Spending Package

On March 6, President Trump signed an $8 billion emergency spending package to respond to the growing number of coronavirus cases in the United States and abroad. The majority of these funds ($6.5 billion) were allocated to the Department of Health and Human Services, with $2.2 billion earmarked for the Centers for Disease Control and Prevention to help states with prevention, preparation and response. Specific to providers, this first bill supported the extension of telemedicine services to Medicare recipients, at an estimated cost of $500 million. For many provider organizations considering telemedicine services, this bill was the impetus for implementation and a push to commercial insurers to cover telemedicine visits and reimburse at the same rate as office visits.

Families First Coronavirus Response Act (FFCRA)

On March 18, less than two weeks after the first emergency spending package was signed, President Trump signed the FFCRA into law. The FFCRA attempted to address the growing health and financial impact of the coronavirus pandemic with funding targeted for paid sick leave, free testing and expanded unemployment benefits. Specific to providers, the FFCRA included a temporary 6.2% increase in federal payments to state Medicaid programs; included temporary coverage of diagnostic testing for the Children's Health Insurance Program (CHIP); allocated monies to Veterans Affairs and Indian Health Services for testing; and dedicated $1 billion to the National Disaster Medical System to reimburse testing costs for those without health insurance. For businesses with less than 500 employees, the FFCRA also provides two weeks of paid sick leave for COVID-19 related reasons as well as up to 12-weeks of paid (not less than two-thirds of a person's pay) Family Medical Leave Act (FMLA) time off. Eligible employers will receive refundable tax credits to offset the costs of providing this paid leave by reporting their total qualified leave wages and the related credits for each quarter on their federal employment tax returns, usually Form 941, Employer's Quarterly Federal Tax Return. Important to note is that healthcare providers, their offices and staff are eligible for complete exemption under FFCRA.

Coronavirus Aid, Relief, and. Economic Security Act (CARES Act)

On March 27, the CARES Act was signed into law to provide over $2 trillion in economic support to keep businesses and individuals financially afloat during the unprecedented economic freeze caused by the COVID-19 pandemic. While the CARES Act affects seven main groups – individuals, small businesses, hospitals and public health, federal safety net, state and local governments, and education – we will focus on the small business and hospitals and public health impact. In the public health sector, hospitals/health systems were allocated $100 billion to support their response to the coronavirus. Federally supported community health centers were granted over $1 billion in immediate funding to treat nearly 28 million people. Adding to the funds already allocated with the first and second spending bills, the CARES Act provides additional funding for diagnostics, treatments and vaccines; an additional $4.3 billion to the CDC; an additional $20 billion to the Veterans Administration; and continued support of telehealth programs.

Additionally, this bill gives $16 billion to the Strategic National Stockpile for medical equipment, including ventilators and masks. For small businesses including independent physician practices, the greatest impact will be in the form of emergency grants (up to $10,000), forgivable loans (up to $10 million per business), and relief for those with existing loans through the Small Business Administration. These funds are available on a first come first serve basis and open to all small businesses. Given current conditions and the urgency for these funds, general guidance has been provided but execution of distributing funds and determining what monies will be forgiven is still being determined but is anticipated to be announced on April 10th.

MEDICARE ACCELERATED AND ADVANCED PAYMENT PROGRAM

CMS expanded the Accelerated and Advanced Payment Program to a broader group of Medicare Part A and B suppliers. The program is intended to provide necessary funds when a disruption of claims submission and/or claims processing occurs, including during national emergencies or natural disasters, to accelerate cash flow to impacted providers and suppliers. Requests are submitted to the appropriate Medicare Administrative Contractor (MAC).

To be eligible, providers must have submitted Medicare claims within 180 days of application and must not be in bankruptcy, under an active integrity investigation, or have outstanding delinquent Medicare overpayments. Providers can request up to 100% of their Medicare payment amount for a three-month period. The MAC is tasked with reviewing requests and issuing payments within 7 days of receiving the request. Repayment begins 120 days after the payment is issued and must be completely repaid in 210 days. Repayment is automatically deducted from future claims until Medicare fully recovers the advance. If the entire advanced amount is not fully recaptured within 210 days of claims submissions, the balance still due will be billed for direct payment.

While the Medicare Accelerated and Advanced Payment Program provides an influx of relatively immediate cash, it is truly an advance – whose repayment occurs when practices are probably just starting to ramp back up based on current best scenarios. It is truly a Catch 22 of pay me now or pay me later.

PRACTICE IMPACT

For independent physician practices, the month of March was an exercise in constant change in workflow, operations, and financial management as hospitals and ASCs cancelled elective procedures, patients cancelled or failed to keep appointments, and schedules were reduced to accommodate social distancing and elective care deferral. Although practices continued to realize income from previously submitted accounts receivable, reductions in provider compensation and furloughs or layoffs of staff were contemplated or undertaken.

When the FFCRA was signed into law, many practices considered utilizing the provisions for 2-weeks of paid sick leave or paid FMLA leave for COVID-related reasons. The challenge with this course of action is that the practice still needed to fund the paid time off – in real time … now. The tax credit for these monies spent would not be realized for many months. Not ideal when the cash flow for most practices is rapidly slowing to 50% or less of what it had been earlier this year.

In these uncertain times, the key business focus needs to be on cash conservation to maintain some level of viability for the near and mid-term. The Economic Injury Disaster Loan (EIDL) program as well as the Paycheck Protection Program (PPP), both part of the CARES Act, provide a lifeline of funding to small businesses in need. The EIDL program includes the option to request an advance distribution of up to $10,000 while waiting for the loan to be approved – a process that usually takes 2-3 weeks. The advance does not need to be repaid if the EIDL loan application is not approved. The EIDL program funds can be used to pay fixed debts, rent, utilities, payroll, and other accounts payable. Interest rates are 3.75% for small businesses and repayment may be able to be stretched up to 30 years. Employers approved for an EIDL may be eligible for a second loan designed to keep workers on the payroll – the PPP loan. The PPP loan is forgivable when the employer keeps all employees on the payroll for 8 weeks and the funds are used for payroll, mortgage interest, rent, and/or utilities. It is important to remember that this is a low-interest loan and the amount to be forgiven will be determine by the bank, at a future date, after the borrower applies for loan forgiveness. Per the Treasury Department, the borrower may owe money if staffing and payroll is not restored to the levels pre-February 15, 2020. The borrower will have until June 30, 2020, to restore full-time employment and staffing levels for any changes made during February 15, 2020, and April 26, 2020. Monies may also be owed in the event the borrower reduces the full-time employee headcount or if salaries and wages are reduced by more than 25% for any employee that made less than $100,000 annualized in 2019. While the loan may be forgiven, the number of caveats, given the continued uncertainty of the situation, serves as a reminder that this is indeed a loan and businesses should plan on paying it back.

The CARES Act also expanded unemployment benefits with additional funds and many furloughed employees figured out quickly that they would fare better on unemployment rather than rely on 2-weeks of paid sick leave or paid FMLA leave. For practices that take PPP loans (and expect them to be forgiven), how will they convince their furloughed employees to come back to work when they are at home, on unemployment and faring better financially? Or perhaps employers are simply expected to pay employees their full-time salary and benefits while on furlough but not expect them to return to work until they are needed?

SUMMARY

In spite of supportive intent, the COVID-19 pandemic represents the latest, and perhaps greatest, in a long line of challenges to independent physician practices. While the various stimulus packages may embody a lifeline of survival for some, others will experience COVID-19 as the "one last straw" that breaks independent entrepreneurial spirits. Health systems should be aware of resources available to help local independent practices while evaluating employment or other rescue opportunities.

Proactively assessing your willingness to acquire independent physician practices or employ individual private practitioners who are in dire financial trouble is one of the strategic imperatives outlined in HSG's recent article entitled COVID-19 and Your Employed Physician Network (Checklist), which also delineates steps to rationally approach this inevitable issue.

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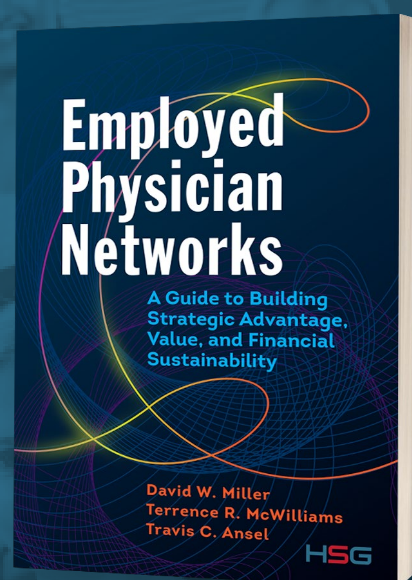

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