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Key Healthcare Legal, Regulatory and Policy Issues for 2016

14th Annual Future Care Web Summit

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Presented by

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Sixteen to Watch in ‘16

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1. Medicaid Expansion

- Already biggest federal health care program by enrollment
  - **22.9% of Americans | 73M people**
- Proliferation of ACA 1332 innovation waivers and Medicaid 1115 waivers
- Red States breaking ranks (LA, WY, SD, AL)
- President's initiative
- Increasing hospital system risk assumption under waivers

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2. Patient Engagement & Retention Battleground

Tactics vital to success of ACOs, MA & Exchange Plans

Waivers / safe harbors limited

Medicare Advantage marketing rules, patient inducement issues being managed

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3. Risk Adjustment Impacts Payment

- Robust code capture vital to success of plans
- Medicare Advantage, ACOs, Readmission Penalties already strongly impacted
- Likely to be applied Independence of Home and future key programs
- MA Call letter likely to be battleground again

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4. Provider based Medicare Advantage

- Medicare Advantage contracting seen as path to jump past imperfections of ACOs
- Patient lock-in and identification facilitated
- Improved likelihood of HCC success
- Will CMS welcome the surge?

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5. Episode Payment Hits Post-Acute

- CJR in 67 MSAs / 800 hospitals
- Performance begins 4/1/16, downside risk in 2017
- Presages other mandatory procedure based Medicare fee for service value based payments
- Scramble among hospitals and post acute actors in and out of the MSAs to prepare

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6. Boards of Directors Under Microscope

- DOJ official Sally Yates Memorandum
- “Marching orders” to focus on individuals from inception of investigation
- No release of individuals absent “extraordinary circumstances”

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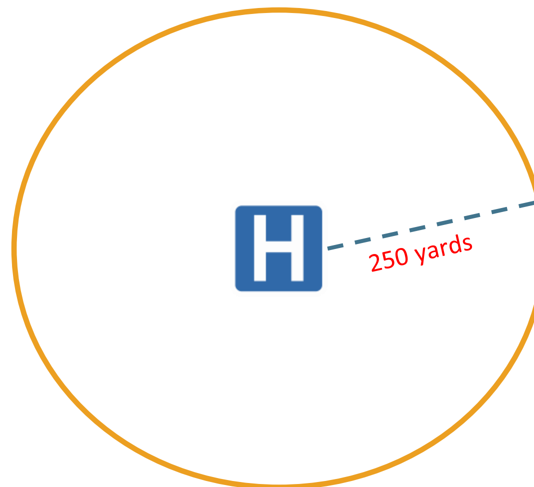
7. Eligibility for Provider Based Payments Frozen

- Budget Act blocking HOPPS payment to off campus hospital departments
- Impacts provider based clinics, physician offices as sites for technical procedures and surgical centers
- Campus now 250 yard radius around main building



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8. MACRA Physician Payment Gets Defined

- Solution to SGR brake on physician payment
- Regulatory battles over method to combine MU, PQRs and VBM
- Battle to define **qualifying Alternative Payment Models** which are alternative pathways to Medicare payment increase
- APM alternative drives provide interest in VBP networks

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9. Dual Eligible Conundrum

Everyone agrees that duals cost Medicare more than twice what non-duals do

13 states offering demos struggle with enrollments

Classic call for lock-in automatic enrollment or direct enrollment

- beneficiary advocate push back

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10. Mental Health

- Increased recognition of mental health conditions as a driver of cost for at risk lives
- Health plans seek to give life to the **parity requirements**; reconsider integration of networks
- Government layering on new rules – Medicaid MCO rule pending
- Providers struggle to integrate behavioral health into primary care settings

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11. Out-of-Network

- Series of **press attacks** on consumer impacts of out of network (OON) billing
- Legislation begins to address **“surprise bills”**
  - NY, TX, ND – Passed
  - NJ, FL, CA – Attempts
- Impacts on groups, facilities and service providers with OON strategies
- Hospitals resent suggestion that they are responsible

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12. Hospital Insolvencies

- Hospitals experiencing escalating payment cuts
  - ACA IPPS Update Adjustment
  - ACA DSH Payment Cuts
  - MACRA IPPS Update Adjustment
- **-$5B** (2016), **-$10B** (2017), **-$16B** (2018)
- **Add in**:
  - Reduced inpatient days per 1,000
  - Readmission penalties
  - High tech IT costs
- Reponses include Consolidation, Transformation, Asset sales
- Real estate divestitures

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13. Episode Payment Contracts

- **Easy to see need – hard to write**
- Definitional issues – population, base-line period, scope of services, initiation, duration, grouper
- Defining price including risk adjustment / inflation factors
- Define Payment – retroactive, prospective, volume, discount, trends, co-morbid adjustments

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14. Post-Acute Site Neutrality

- MedPac and others studying replacements PAC payments systems with a unified PPS
- SNFs, HHAs, IRFs & LTCHs will be impacted
- Considerable overlap with patients across settings, non-clinical factors seem to pervade in placement
- Wide variation in use and costs nationally
- Common assessment tool / has been tested
- Will drive network change in conjunction with CJR

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15. Chronic Care Management

- Given high cost of chronic care to Medicare, **focus of agency and Congressional attention**
- The 14% of beneficiaries with 6 or more chronic conditions:
  - account for 62% of spending
  - account for 25% of readmissions
- **Senate Finance** held hearing and **Bipartisan Work Group** has reported
- Look for expansion of Independence at Home Demo (home based primary care bonuses)
- Watch for extension and permanent authorization of I-SNPs, D-SNPs and C-SNPs

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16. Convenient Care

36% of consumers accessing care at retail site

(**up from 10%** 7 years ago)

High reported levels of satisfaction with retail experience

Telehealth |Retail | Urgent :
Alternatives continuum fast evolving

Staffing models and Scope of practice of mid-levels will evolve

Retail scope of services increasing

Telehealth regulation trailing indicator of market use

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Questions

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