Emerging Compliance Issues with Advanced Alternative Payment Models

Tiana L. Korley
Associate General Counsel
University of Michigan
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Agenda

- Medicare Shared Savings Program
- Oncology Care Model
- Bundled Payments for Care Improvement Advanced
- Medicare Diabetes Prevention Program

Medicare Shared Savings Program

- Desire to move ACOs to two-sided risk
- BASIC Track Level E = former Track 1+ Model
  - 1st dollar savings up to 50% based on quality performance (NTE 10% updated benchmark)
  - 1st dollar losses at a rate of 30% NTE percentage of revenue specified in the revenue-based nominal amount standard under QPP capped at 1 percentage point higher than the benchmark nominal risk amount (8% of ACO participant revenue 2019-2020, capped at 4% of updated benchmark)

Medicare Shared Savings Program (cont'd)

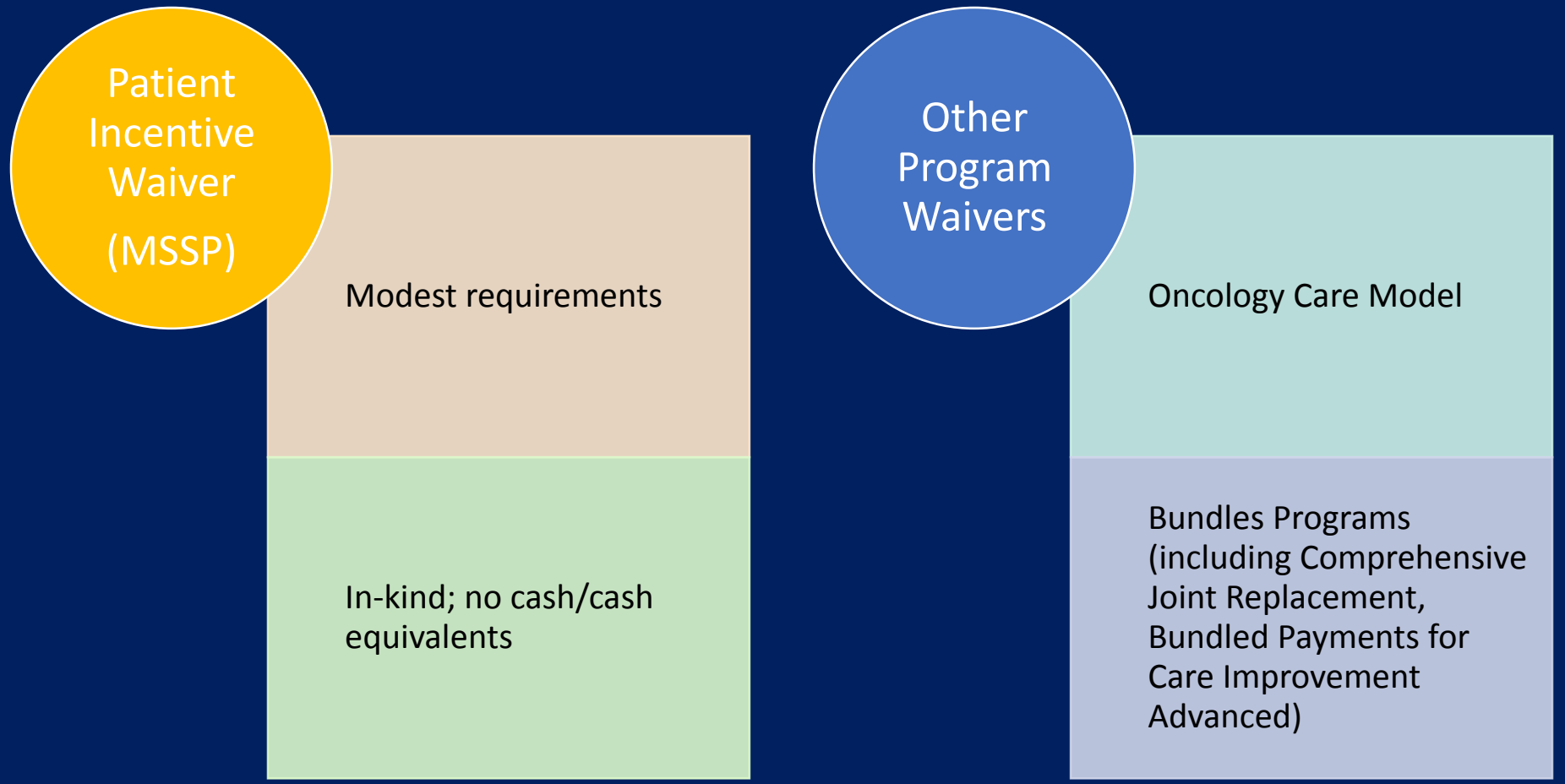
- Annual choice of beneficiary assignment methodology
- Qualifies as an advanced APM
- Regulatory relief
  - Fraud and abuse waivers
    - Care coordination
    - Transportation
    - Innovative physician compensation arrangements
  - Option for Beneficiary Incentive Program
  - Expanded telehealth options (**PY2020**)
  - SNF 3-Day Rule Waiver

Medicare Shared Savings Program (cont'd) Beneficiary Incentive Program

- Election to establish program July 1, 2019 must operate for an initial period of 18 months
  - Business commitment
- Significant compliance requirements
  - ACO must furnish the incentive payments – NOT the participant TINs
  - Incentive payments only for qualifying services (NTE $20/qualifying service)
  - Only in the form of a check, debit card, or "traceable cash equivalent"
  - No cost shifting
  - Notice requirements
  - Must be provided no later than 30 days after a qualifying service is furnished
    - If beneficiary refuses payment → documentation of refusal
  - Public reporting requirements (stringent tracking)

Medicare Shared Savings Program (cont’d) Beneficiary Incentive Program

Medicare Shared Savings Program (cont'd)



Oncology Care Model
Compliance Issues

- Ensure currency of Implementation Protocol
- Compliance with gainsharing waiver requirements
- Timely reporting program integrity issues
- Same TIN requirement for those “OCM Practitioners” providing “Chemotherapy Services”
  - Important to understand nuances in defined terms
- Upcoming optional CMS termination right (2020)
  - “If the Practice is a Non-Pooled OCM Participant, CMS may terminate this Agreement if the Practice does not earn a [performance-based payment] by the time of initial Reconciliation of the fourth Performance Period…”

Bundled Payments for Care Improvement Advanced Model Compliance Challenges (and Opportunities!)

- If gainsharing, compliance requirements for distributing gain
- Timely reporting to CMS of program integrity concerns
- If utilizing home visits payment policy waiver, notice to CMS is required
- Notice to CMS if utilizing beneficiary incentive program

Medicare Diabetes Prevention Program Compliance Challenges

"We also considered an alternative approach where existing Medicare providers and suppliers would have to submit a separate enrollment application (including any applicable enrollment application fee) and be separately screened to be eligible to bill for MDPP services. This alternative would enable all organizations furnishing MDPP services to have the same classification as MDPP suppliers and undergo the same application requirements. **Under this option, should an entity have an issue related to their MDPP enrollment, for example, falsely attesting to beneficiary weight loss, CMS would have discretion to apply revocation to its MDPP enrollment, rather than affecting their broader enrollment in Medicare**." - *CY2017 PFS Final Rule*

Medicare Diabetes Prevention Program (cont'd) Compliance Challenges

- Timely reporting to CMS of adverse legal actions and other required provider enrollment changes
  - Relatively new requirement: **Federal sanctions**
  - Keep coaches roster current!!!
    - Query: does CMS match effective date of change on enrollment in PECOS to check compliance?
- Develop and implement complaint resolution protocol
  - Documentation of all beneficiary contact
    - Name, MBI, summary of complaint, actions taken, etc…
- Administrative requirements
  - Name of business in public view
  - Appropriate signage

Managing Compliance Challenges

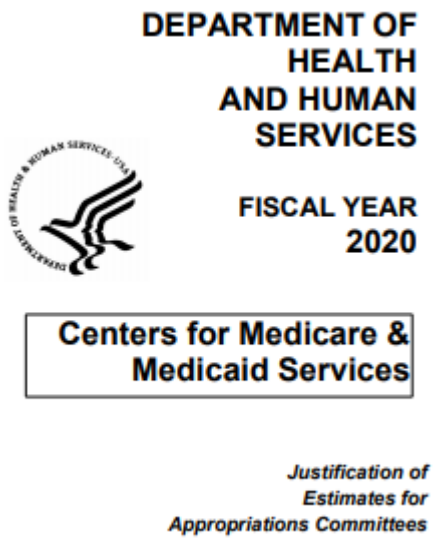
- Task someone with reviewing the Participation Agreement periodically
- Share subregulatory guidance with your attorneys
  - Counsel may not have access to important subregulatory guidance, including “ACO Spotlight”
- Consult with legal counsel prior to there being a crisis
  - Committee involvement
  - Regular 1:1 meetings
- Increasingly important to coordinate since Population Health initiatives have significant spillover into other operations
  - Example: Telehealth
  - Example: Care Management

The Future

- April 22, 2019: New primary care models announced
  - Desire for commercial alignment
- April 25, 2019: State Medicaid Director Letter announcing opportunities for state partnerships to address needs of dual-eligible
  - Michigan: Capitated Financial Alignment
- Potential changes to fraud and abuse regulations will require participation in alternative payment models

The Future (cont'd)

FY2020 CMS Congressional Justifications



MCR36: Shift Medicare Health Care Payments from Volume to Value

To achieve the goals of better care, smarter spending, and healthier people, the U.S. health care system must substantially reform its payment structure to incentivize quality health outcomes, and value, over volume. APMs and payment reforms that increasingly tie FFS payments to value are currently moving the health care system in the right direction. In order to continue the advancement of value-based care, ***CMS aims to increase the adoption of APMs where participants take on downside risk*** – that is, direct financial accountability for beneficiaries' costs and quality of care. Medicare is leading the way by publicly tracking and reporting payments ***tied to APMs that are taking on downside risk***. CMS will use FY 2019 as a developmental year to establish a baseline and set future targets for FY 2020 and FY 2021.

Tiana Korley
Associate General Counsel
University of Michigan
tkorley@med.umich.edu
(734) 936-2924