What’s Ahead for Health Care Providers in 2012

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INTRODUCTION

Certainly a main financial focus of hospitals in 2011 has been the looming changes to be brought about by the growth in the number of insured under the Medicaid program being mandated by the Patient Protection and Affordable Care Act (PPACA). Since the U.S. Supreme Court has accepted the constitutional cases for argument in the coming year and perhaps will make a decision before the 2012 Presidential election, most hospitals are assuming that the 35-40 million people in the United States who are currently uninsured will become Medicaid patients in 2014. Much ongoing planning and investment is the result of that expectation. An additional trend is the current loss of health insurance benefits to employees of primarily small business due to the prolonged economic downturn and the increase in costs for health insurance. Many health insurers are continuing to pressure hospitals to control expenses and agree to accept lower payments in light of large premium increases for insurance in the employer market. The loss of health insurance for many of these employers and employees only adds to the pressure for flexible payment policies by hospitals resulting in potentially lower revenues.

SPECIFIC AREAS OF CONCERN IN 2012:

Costs of Compliance

Most hospitals and health systems have had to increase the number of professionals and support staff to support the increased compliance concerns brought about by dramatic changes in the level of scrutiny in many areas. For example, in the last year the Office of Civil Rights fined a health system millions of dollars for violations of the Health Insurance Portability and Accountability Act (HIPAA). In addition, with hospital-acquired conditions leading to billing limitations, health systems have had to increase their oversight of these events. The Office of Inspector General has been beefed up to recover large amounts from providers to help pay for health care reform. Even the proposal from the Obama administration on deficit reduction calls for recovery of billions of dollars from providers to pay for programs being cut. Recovery Audit Contractor (RAC) audits of Medicare claims have kicked in for most hospitals and the use of outsourced government contractors, who are now communicating with hospitals on a regular basis, is now growing to cover the Medicaid billing area as well.

Indigent Care

Hospital profits and the percentage of care for the indigent will certainly be a big story in 2012. Non-profit hospitals are being criticized by Congress on a regular basis for their perceived lack of concern for indigent patients. The PPACA called for changes in this area and the Internal Revenue Service (IRS), which likewise has been criticized for its alleged lack of oversight of non-profits, has strengthened regulations and requirements for the hospitals’ management and governing boards in the areas of executive compensation, review of audited financial statements and conflicts of interest policies. Overseeing and training management and boards to be more sensitive to issues that appear to be an abuse all costs money. Most hospitals are concerned about their ability to comply with the IRS requirement for a “community health needs assessment” and for them to report on what the hospital is doing and plans to do in the future to resolve community health needs. Finally, with the economic pressures on states and localities, the criticism of hospitals not paying their fair share of property taxes to support budgets and services to their communities has resulted in non-profit hospitals having to defend the basis for their property tax exemptions.
Increased Competition and Consolidation

With pressures on providers to reduce costs of care, hospitals have been studying their cost structures and some have decided that merging with another hospital or system and negotiating as a larger group can provide some of the payor relief that they need. Furthermore, organizations are feeling pressures to attract the best-paying patients. Those with the necessary capital available are building new facilities or renovating older ones. The movement to single rooms, more attractive settings and claims of eco-friendly environments (co-generation of electricity on-site as an example) require large expenditures of capital but put competitive pressures on those providers who cannot afford to build or renovate. Another reason for consolidation. With more merger activity, the Federal Trade Commission appears to be continuing to step up its anti-trust enforcement.

Technology

With tremendous incentives and potential penalties ahead for Medicare and Medicaid providers under the Health Information Technology for Economic and Clinical Health (HITECH) Act and PPACA and other reform laws, most hospitals, whether they like it or not, have had to spend significant sums on e-prescribing and electronic medical records. For some the strategic planning and the contracting were difficult enough, but the implementation, if not done correctly with an adequate financial investment, can backfire. At times medical and nursing staffs resist change. Other times, poorly engineered systems actually make it more difficult to practice, causing downtime, backups and loss of productivity. There appears to be no way to reverse the trend to invest large amounts of capital into such systems. These expenditures are in addition to large capital purchases of clinical equipment such as simulators, robotic surgery stations and remote monitoring capability.

Access to Capital

In order to fund capital construction and purchase technology, hospitals need access to capital at rates that are affordable. The impact of the continuing recession limits the access to capital that hospitals enjoyed in the past. Banks that provided letters of credit have found their own credit standing in jeopardy and are unable to support hospital financings. The rating agencies have noted the financial pressures on hospitals even with the prospect of more patients due to the expected lower payments. As hospitals must be examined on their own financial statements, investors are becoming more choosy as to where to invest their funds, especially in the long term (20-30 years). The recent proposal to eliminate the tax exemption on tax-exempt bonds is also troubling since it could mean increased costs of borrowing if that exemption were not available to investors.

Labor and Nurse Staffing

Labor unions and nurses are continuing to push for laws requiring mandated nurse staffing ratios, which in some jurisdictions has driven up costs for hospitals. Several studies have shown that quality of care does depend upon the level of nurse staffing, but hospitals would like to maintain the ability to set the ratio and decide how their employees are assigned. For hospitals, this could be a huge cost factor if mandated levels are passed in states where it is perceived to be an issue.

Conclusion

Whatever the outcome of the U.S. Supreme Court decision as to the future of the PPACA, there are a number of areas on the legal landscape that health care providers need to watch in 2012. We look forward to assisting our clients and friends with these important issues.