CLIENT ALERTS & INSIGHTS

Opportunities and Challenges for Office-Based Labs and Ambulatory Surgery Centers: Six Main Takeaways from the Benesch Healthcare+ Nephrology & Dialysis Conference

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Experts included Dapo Afolabi, M.D., President and CEO of Fort Worth Renal Group, Terry Litchfield, President of Access Solutions, Jason McKitrick, Principal at Liberty Partners Group, Chas Sanders, President and Founder of Margin, and Jeff Peo, Managing Partner and Co-Founder of Lifeline Vascular Care. The panel was moderated by Jason Greis, Healthcare+ Partner with Benesch.

Here are six main takeaways from the panel discussion:

1. **Practice-based OBL ownership is at risk due to lower reimbursement.** Medicare reimbursement for dialysis vascular access and many other surgical services performed in an OBL now falls well below practice costs. OBLs focusing on providing these surgical services are being forced to provide these services as loss-leaders for other practice services, to convert their centers to ASCs, where possible, or to close shop and treat their patients in a hospital outpatient department setting.
2. **Multi-specialty combinations are increasing.** ASCs, OBLs and physician practice alike can enhance their long-term viability and financial performance by incorporating multiple specialties into their service line offerings. This multi-specialty approach increases the diversity of offerings, helps to guard against governmental payor cuts to select types of grouped services, fosters cross-specialty collaboration, and delivers holistic care to patients. The experts noted that they are beginning to see significant combinations of nephrology, cardiology, vascular surgery, radiology and podiatry practices.
3. **In-office vascular access services are a great opportunity to advance patient welfare.** Patients have consistently expressed a preference for receiving dialysis vascular access services in an OBL or ASC due to lower cost, greater convenience and superior outcomes reported in these settings.
4. **There is growing congressional support to halt ongoing reductions in reimbursements for office-based specialists.** There are two Congressional bills aimed at stopping ongoing cuts to physician payments and office-based specialists. H.R. 3674, known as the Bilirakis bill, would mitigate cuts to office-based specialists providing certain services for two years. H.R. 2474, known as the Bera-Bucshon-Ruiz-Miller Meeks bill, would provide a permanent Medicare Economic Index-based inflationary update to the Medicare Physician Fee Schedule.

5. **Enforcement activity is increasing.** There has been a recent surge in enforcement actions targeted at ASCs and OBLs over the past 3-5 years. However, arrangements that are structured to comply, or substantially comply, with applicable safe harbors and exceptions can help to significantly mitigate the degree of fraud and abuse risk.
6. **Site neutral payment policies are on the horizon…for real this time!?** For the better part of the past decade CMS has commented that it planned to roll out site neutral payment policies that reimburse HOPDs, ASCs and OBLs the same amount for the same services regardless of the site of service in which they are provided. The drumbeat is once again growing louder that this payment policy could soon be implemented. Panelists noted they are concerned about the unintended consequence of setting the reimbursement rate at the lowest possible denominator (e.g., generally OBL rates) and the likelihood that many OBLs and ASC would close as a result of such a reimbursement policy, which could threaten access to outpatient care in many communities.

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