

# Hospital-Physician Shared Savings and Quality Performance Incentives in Clinical Integration Agreements

By Sandra Jarva Weiss, Esq., and Debbie Salas-Lopez, M.D., M.P.H.



Sandra Jarva Weiss, Esq.



Debbie Salas-Lopez, M.D., M.P.H.

**H**EALTH CARE REFORM, declining reimbursements and a greater emphasis on outcomes are driving hospitals and physicians to align to accomplish better care coordination, improve quality and lower costs. One form of clinical alignment is a comprehensive clinical integration agreement (CCIA).

A CCIA between a hospital and physician group can be used to manage a hospital service line and includes financial incentives to the physician group to improve quality, efficiency and coordination of care as well as reduce costs. For a CCIA to be successful, there must be a strong relationship among all the stakeholders, mutual trust, and a shared vision of the goals of greater patient access, improved care and lower costs.

The CCIA typically will provide two levels of compensation. The first is a fixed annual base fee that is based upon the fair market value of the time and effort of the physicians who manage the service line. These services might include medical director, strategic planning, education, development of clinical protocols, physician staffing, case management and committee participation. The second level of compensation is an incentive fee for shared savings or high-quality performance: predetermined payment amounts contingent on the achievement of specific, objectively measurable, quality improvement and efficiency goals. The incentive fee also must be a fair market fee. Metrics and targets on

quality must be agreed upon, evidence-based and capable of being monitored and measured. Robust information technology systems must be in place to collect and track data to measure performance against the targets. The incentives must also meet regulatory requirements.

Shared savings and quality performance incentives in CCIAs must comply with the Anti-Kickback Statute and the Stark Law. The regulatory guidance from the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Health & Human Services Office of Inspector General (OIG) recommends certain safeguards for these incentives, including: (a) document the quality or cost-savings measures and targets with specificity; (b) identify independent medical evidence that such incentives do not adversely affect patient care and conduct independent medical reviews to ascertain their impact on quality; (c) impose no limitations on the physician's ability to order tests, treatments or specific supplies; (d) apply to all patients; (e) apply reasonable caps on incentives and floors on cost savings, and re-base all targets in subsequent years to reward only new savings; (f) pay incentives to physicians on a per capita basis; (g) set the term of the incentives between one and three years; and (h) disclose incentives to patients.

Although neither the OIG nor CMS has approved specific incentives, the following incentives, if properly structured, could meet regulatory concerns: (a) increases in patient satisfaction;

(b) decreases in turnaround times; (c) increases in on-time starts; (d) increases in room utilization — if not tied to quicker-sicker discharges; (e) decreases in supply costs per case — if not tied to limiting the physician's choice; (f) decreases in infection rates; (g) decreases in returns to operating room or to hospital; or (h) decreases in mortality rates.

Because there is little regulatory guidance on incentive programs, the parties may want to obtain an advisory opinion from the OIG on the acceptability of the specific shared savings/quality performance incentives selected. In addition, it is recommended that an independent, fair market value appraisal of all fees be obtained before the CCIA is finalized.

Done within the framework of regulatory boundaries, CCIAs are gaining momentum as a strategy to achieve the triple aim of health care: better coordination, lower costs and improvement in care.

Weiss is a member of Norris McLaughlin & Marcus, P.A., and Chair of the Health Care Group in the Pennsylvania office. She has extensive experience in all areas of health care regulation. Dr. Salas-Lopez is the Leonard Parker Pool Chair of Medicine at Lehigh Valley Health Network and a professor of medicine at the Morsani College of Medicine and School of Public Health at the University of South Florida. She also has a Master's of Public Health with a concentration in health care administration. She is a member of the American College of Physicians and has a special interest in physician leadership and executive management. ■