

Laboratory Billing Programs & Rural Hospital Survival

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Overview

- What is Old is New (and Improved) Again
- These Arrangements are Appealing ... Because They Work (at Least in the Short Term)
- Common Characteristics of These Arrangements
- Checklist of Questions & Protections

What is Old is New (and Improved) Again

- Every 4-6 Years There Seems To Be A New Waive of Lab & Other Service Line Arrangements.
- These Have Made The News In the Last Few Months:

NPR/KCUR article on rural hospitals and laboratory arrangements:

<http://sideeffectspublicmedia.org/post/vulnerable-rural-hospitals-face-tough-decisions-profitable-questionable-billing-schemes>

CBS story on laboratory arrangements in rural hospitals:

<https://www.cbsnews.com/news/rural-hospitals-big-insurance-reimbursements-chestatee-regional/>

Follow-up story by CBS on laboratory arrangements in rural hospitals:

<https://www.cbsnews.com/video/some-rural-hospitals-exploited-by-health-care-executives/>

Follow-up story by NPR/KCUR on the laboratory arrangement with one of the hospitals in the original story:

<http://kcur.org/post/missouri-state-auditor-faces-lawsuit-battle-control-tiny-rural-hospital-escalates>

What is Old is New (and Improved) Again

Improved How?

- Increased sensitivity to compliance and regulatory requirements
- Apparent use competent legal counsel
- Apparent understanding of laboratory services and billing

These Arrangements are Appealing ... Because They Work (at Least in the Short Term)

- Nearly 700 rural hospitals are at risk of closing
- Local hospital boards are made up of local community leaders that are committed to the survival of their local hospital
- These laboratory management arrangements are presented as a way to keep the local hospital open

These Arrangements are Appealing ... Because They Work (at Least in the Short Term)

- One rural hospital that had a little over \$7,500,000 in revenues the preceding fiscal year,
 - Had over \$24,000,000 of lab revenue in the first 4 months of the new lab arrangement
- Another rural hospital that billed a particular insurance company \$1,300 per month in the previous year, billed that insurance company \$1,300,000 per month after the new lab arrangement was implemented

These Arrangements are Appealing ... Because They Work (at Least in the Short Term)

- These arrangements are often designed to take advantage of the higher reimbursement rates paid to rural hospitals
 - Example: one insurance company paid \$2,250 for a test because it was submitted as being performed in a rural hospital
 - ❖ that insurance company would have paid \$120 if it has been performed by a large national lab company

These Arrangements are Appealing ... Because They Work (at Least in the Short Term)

- A significant problem arises when the insurance companies determine that the new arrangement violates their provider agreements (or constitutes fraud) and demand a refund

Common Characteristics of These Arrangements

1. Management Agreement

- Usually gives the management company control over the clinical and operational aspects of the hospital's lab
- Usually includes a marketing program to build and maintain provider relationships and a provider network
- Often the arrangements will exclude Medicare and Medicaid
- Fees for the management services are typically 75%-80% of hospitals lab receipts

Common Characteristics of These Arrangements (cont'd)

- Often the management company is a new Limited Liability company set up just for this arrangement with this hospital
 - In one case, the lab management company was set-up in Florida on October 13, 2016, and signed the lab management contract with the hospital on October 20, 2016

Common Characteristics of These Arrangements (cont'd)

2. Laboratory Billing Contracts

- Usually required to use a billing company designated by the management company for all non-Medicare and non-Medicaid laboratory services
 - \$5,000-\$10,000 set-up fees
 - 6%-7% of gross receipts

Common Characteristics of These Arrangements (cont'd)

3. Agreement for Reference Laboratory Services
 - May require that the hospital use certain designated labs for reference laboratory services
 - At prices above hospital's current cost for reference laboratory services

Common Characteristics of These Arrangements (cont'd)

4. Equipment Purchase/Lease
 - Lease payments for new equipment
 - Debt service on new equipment
 - Provision of reagents and consumables
 - Sometimes maintenance fees

Checklist of Questions & Protections

- Where else have they implemented this lab management program?
 - With the same management company, or was a new LLC created for your arrangement?
 - How long have the arrangements been in operation?
 - ❖ It usually takes the insurance companies 18-24 months to begin questioning the increased volume, and request/impose a refund and an adjustment in rates

Checklist of Questions & Protections (cont'd)

- How have the commercial insurance companies responded to the increase in lab volume?
 - Ask to speak with the person at the hospital that negotiated the settlement and/or new rates with the insurance companies
 - Hospital may wish to discuss the arrangements with the insurance companies in advance

Checklist of Questions & Protections (cont'd)

- How have the provider community responded to the lab management and services?
- Request/insist on indemnification language that requires the management company (and billing company?) to repay its applicable fees if an insurance company requests a refund
 - ❖ The insurance company only has a contract with the hospital, and it is the hospital that will be required to make any repayment

Checklist of Questions & Protections (cont'd)

- ❖ Under the lab arrangement (the management agreement, billing arrangement, equipment lease, etc.), the hospital has paid out 83%-92% of its commercial lab receipts
- ❖ If the insurance company demands a refund of \$1,000,000 for lab services, how will the hospital be able to make the repayment? The hospital only received 8%-17% of the payments.
- ❖ If the lab management company is confident that the arrangement is legally compliant and acceptable to insurance companies, the lab management company should be willing to agree to reasonable repayment indemnification language

Checklist of Questions & Protections (cont'd)

- Can the hospital use other billing companies, reference labs, and equipment vendors, or does the hospital have to use the vendors chosen by the lab management company?
 - Do the billing company and reference labs work only with hospitals that engage the lab management company?
 - Ask for contact information for those hospitals that use the billing company but not the lab management company

Checklist of Questions & Protections (cont'd)

- Will all the lab work billed through the hospital be performed on-site at the hospital?
- Will all the lab work billed through the hospital be for patients that reside (at least part of the year) in the hospital's service area?

Checklist of Questions & Protections (cont'd)

- Ask about the Marketing Plan
 - Ask to see the marketing materials
 - Why will the providers leave their current lab vendor to begin using the hospital?
 - How will the marketing staff be compensated?
 - Is the lab management fee fair market value for the services being provided by the lab management company?
- The hospital should have the arrangement and the documents reviewed by legal counsel familiar with these arrangements



THANK YOU!
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