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2019 OUTLOOK FOR INNOVATIVE HEALTHCARE COST CONTROLS

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Plan sponsors are looking for innovative health benefit designs that will help control medical spending, including the cost of prescription and specialty drug coverage. While a number of very large employers have been pursuing alternative programs for some time, last year's announced alliance of Berkshire Hathaway, Amazon and JP Morgan to tackle healthcare costs and quality has spurred other employers to explore new health plan designs. Even smaller employers are considering referenced-based pricing and other mechanisms that are easier to understand and administer. Before heading down these new paths, however, employers need to recognize the evolving compliance challenges that these initiatives bring.

EVOLVING PAYMENT ARRANGEMENTS

The term "value-based purchasing" encompasses varying approaches to achieve three health policy goals: better care for individuals, improved health for populations and lower costs. Here are some examples:

- *Quality-focused payment models.* Some cost-control initiatives aim to improve the quality of care by moving from fee-for-service to alternative payment models. Under these designs, group health plans offer enhanced payments to providers that meet certain quality standards and spending benchmarks. Providers share in any savings but risk lower pay if they don't meet certain benchmarks. A few very large employers have pursued this strategy by directly contracting with major healthcare systems — sometimes set up as accountable care organizations (ACOs) — or using patient-centered medical homes or bundled-payment arrangements. Other employers use carriers or third-party administrators (TPAs) that have value-based contracts with providers. In addition, the Department of Health and Human Services is testing these models with Medicare and Medicaid providers and carriers.

- *Centers of excellence.* Less complicated but growing initiatives involve employers directly contracting or working with their carrier or TPA to set up "centers of excellence," high-performance networks or referenced-based pricing for particular conditions or procedures like transplants.

- *Direct primary-care arrangements.* A number of employers have begun offering onsite clinics or telehealth to deliver less costly and more convenient primary care to employees. Under another emerging design, an employer contracts with a primary-care practice to provide a defined set of basic health services for a fixed fee per enrollee (rather than a fee for each service).

TRANSPARENCY INITIATIVES

Employers are seeking more transparency about benefit claims, costs and other information to improve plan designs and participants' ability to compare prices. Self-insured plan sponsors hope clearer data will let them better predict costs and negotiate fees with service providers, while sparing participants from surprise bills. This transparency push has launched data warehouses for health plan sponsors to use, as well as tools for participants to price what they'll pay for the same service at different facilities or providers.

Some Affordable Care Act initiatives may broaden access to cost and claim data. For example, under updated guidance from the Centers for Medicare & Medicaid Services (CMS), hospitals must disclose their standard charges for services in a machine-readable format via the internet. While this cost information could prove valuable, converting the raw data into something more usable by plan sponsors and participants will take some time.

ACTION STEPS

Employers should involve legal and compliance staff when designing innovative plan arrangements — even if simply evaluating vendor services that provide "point" solutions in various areas. Emerging payment models and transparency initiatives present unique legal and regulatory issues, some of which are new to employers and benefit plan administrators. Consider these examples:

- *Provider regulation.* Employers contracting directly with a provider should verify the provider meets relevant state credentialing and licensing rules.

- *Risk management.* While self-insured employers generally aren't subject to state laws regulating risk-bearing organizations, those standards could come into play for some arrangements like ACOs.

- *Patient privacy protections.* Data-sharing agreements between providers and employers must adhere to federal and state restrictions on disclosure of health information. In some cases, these standards go beyond the federal Health Insurance Portability and Accountability Act (HIPAA) and similar state laws. For instance, providers' disclosure of substance use disorder information is subject to a specific federal law (42 CFR Part 2) and varying state laws.

- *Interaction with other federal benefit laws.* Besides HIPAA, ERISA's fiduciary standards may govern these new arrangements, but providers may not be familiar with those requirements. Employers may have to work with providers to ensure they understand and comply with applicable ERISA rules. Value-based designs also need careful review for benefits that might disqualify employees from participating in certain account-based arrangements, such as health savings accounts.

Employers will need to stay on top of these novel legal issues before implementing any innovative payment or transparency arrangement. This is especially true for designs aiming to reduce prescription drug costs by using value-based criteria. As the effectiveness and accuracy of novel cost-saving and quality-focused models evolve, employers should periodically revisit potential compliance concerns.

RELATED RESOURCES

Non-Mercer Resources

- Center for Medicare & Medicaid Innovation (CMS)
- FAQs on Requirements for Hospitals to Make Public a List of Their Standard Charges via the Internet (CMS, Sept. 27, 2018)
- Healthcare Affordability: Untangling Cost Drivers (Network for Regional Healthcare Improvement, Feb. 13, 2018)

Related Mercer Content

- Use Stop Loss to Manage Risk — But Don't Forget Clinical Oversight (Jan. 24, 2019)
- Really Not What the Doctor Ordered (Jan. 11, 2019)
- Take the Reins in 2019: Four Ways to Drive Healthcare Change (Jan. 3, 2019)
- Mercer National Survey: Affordability Concerns Lead More Employers to "Future-Focused" Strategies to Manage Health Cost (Oct. 30, 2018)
- Shifting Gears: Steering Health Strategies from ROI to VOI (Oct. 11, 2018)

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