Assess Your Provider-Based Clinics for Compliance with 42 CFR 413.65: A Comprehensive Approach

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Audience Participation

How familiar are you with the Provider-Based Designation Requirements?

Polling Question

How many provider-based departments are in your organization?
- Less than 10
- 10-20
- 20-50
- More than 50
- More than 100
Polling Question

What is your confidence level in your organization’s compliance with 42 CFR 413.65?
- We have good controls in place
- We are figuring out our level of risk
- We have no idea if we are compliant

Overview of Regulations for Provider-Based Departments

Requirements:
1. Licensing / Credentialing
2. Clinical Services Integration
3. Financial Integration
4. Building / Space Integration
5. Public Awareness
6. Ownership & Control
7. Administration & Supervision
8. Geographic Location
9. Joint Ventures
10. Management Contracts

Obligations:
1. EMTALA
2. Claim Site of Service & Modifiers
3. Provider Agreements
5. Billing for Medicare Patients
6. Payment Window
7. Informing Beneficiaries
8. Health & Safety
Regulatory Landscape

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 2014</td>
<td>CMS replaces E/M facility levels with a single code, meaning that all PBD clinic visits are paid at the same rate. Ancillary services (e.g., infusions, imaging, procedures) still paid at higher hospital rates.</td>
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<tr>
<td>Jan 2015</td>
<td>OPPS Final Rule creates a modifier for hospitals to report on claims for every service furnished in an off-campus PBD. Voluntary reporting for CY15.</td>
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</tbody>
</table>
- Excludes EDs  
- Only applies to services paid under OPPS  
- Grandfathered sites limited to those billing on/before 11/02/15.  
- Non-grandfather sites paid at 50% of grandfathered sites.  
- Relocations are severely limited and most would revoke grandfathered status.  
- Created significant focus on understanding definition of campus and 250 yard radius. |
| Jan 2016 | Mandatory reporting of off-campus PBD modifier. |
| Oct 2016 | WSHA requested data on our PBD sites for use as part of the State (Medicaid) budget discussion, as there was a proposal to reduce/eliminate payment for off-campus PBDs. Proposal did not pass. |
| Feb 2017 | TJC Survey raised awareness regarding co-location issues  
- Meetings with Legal elevated organizational knowledge, risks associated with co-mingling (mixed use), and Conditions of Participation (CoPs) requirements.  
- KEY TAKE-AWAY: Provider-Based designation is more than a financial decision. |
| Jan 2018 | CY 2018 OPPS Final Rule implements payment reduction for non-excepted (non-grandfathered) off-campus HOPDs to 40% of HOPPS rate. |
| Jan 2019 | CY 2019 OPPS Final Rule implements expansion of the site neutral legislation for excepted (grandfathered) off-campus HOPDS to 40% of HOPPS rate for office visit and expanded services. |

Why we started looking at PBD compliance

- State requested a list of our PBD departments
- Joint Commission questions during surveys
- Co-location questions
- CMS presentations on co-location provided commentary on CMS’s expectations (David Eddinger & Marie Vasbinder)
  - A hospital is a hospital 24/7 (this includes hospital outpatient clinic locations)
  - Cannot behave as a department or unit of another hospital
Initial Challenges

• No individual or group responsible for ownership
• Lack of a comprehensive list of all the PBDs
• No consistent process for how PBDs had been defined
• General assumption by people that this was a financial decision
• Lack of understanding of regulatory requirements

TERMINOLOGY
• People don’t understand that Provider-Based means Hospital-Based
  ▫ Caused confusion in every conversation we tried to have

Initial Project Work

• Collaborated with Finance
  ▫ Revenue and usage reports
  ▫ Cost report
  ▫ 855a
• Determined need for project to have executive sponsor
  ▫ Obtained executive intern to assist with work
• Decided to do individual walkthroughs of each PBD
• Needed to create a tool to evaluate each location against regulations
Development of Assessment Tool

- Studied 42 CFR 413.65
- Evaluated MAC Provider Based attestation requirements
- Aligned CFR requirements with the assessment tool
- Identified additional information needed
  - Address, suite number
  - Distance from the hospital
  - Cost Centers
  - Revenue flow
  - Professional services in the clinic?
- Determined what materials provided proof of compliance
  - Hospital licenses
  - Organizational charts
  - Maps

Assessment Tool
Assessment Tool

### Checklist A, Requirements for Meeting Provider-Based Status - Use for All Locations (On-Campus and Off-Campus)

<table>
<thead>
<tr>
<th>§1553.8 Reference</th>
<th>Regulatory Requirement</th>
<th>Question</th>
<th>Y/N</th>
<th>Documentation/Notes</th>
<th>Met</th>
<th>Not Met</th>
</tr>
</thead>
<tbody>
<tr>
<td>§1553.8(c)</td>
<td>Licensing / Credentialing</td>
<td>1. Is the site listed on the hospital’s list of provider-based locations?</td>
<td></td>
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<td>§1553.8(c)</td>
<td>Licensing / Credentialing</td>
<td>2. In this site listed on the Medicare 855A?</td>
<td></td>
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<td>§1553.8(r)</td>
<td>Development of Provider-Based Departments List</td>
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<td>§1553.8(h)</td>
<td>Clinical Services Integration</td>
<td>1. Does the director of the medical staff have a reporting relationship to the chief medical officer of the main hospital?</td>
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<td>§1553.8(h)</td>
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<td>2. Does the medical staff committee of the main hospital oversee the medical staff of the site's medical department?</td>
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<td>§1553.8(h)</td>
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<td>3. Does the medical staff of the main hospital oversee the medical staff of the site's medical department?</td>
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<td>4. Does the medical staff of the main hospital oversee the medical staff of the site's medical department?</td>
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### Development of Provider-Based Departments List

- Cost Center lists
- Epic Department lists
- Financial Reports to identify inpatient vs outpatient revenue
- Hospital Licenses
- 855a
- Meetings with accreditation team
- Reviewed addresses and maps to define on and off campus
Assessment Process

• On-site visits to each location
  ▫ Used the executive intern for much of this work
  ▫ Interviewed staff and management
  ▫ Took photographs
• Research of documents on file
  ▫ Hospital license, Medicare application, org charts
• Collaboration with other teams
  ▫ Finance and Billing
  ▫ Information Services
  ▫ Medical Staff Office
  ▫ Hospital Administration
  ▫ Facilities

On-Site Visits

Every department was visited individually
• Pictures of entrance, signage, waiting rooms, registration desks, etc.
• Interview with management
  ▫ Gain clarity around how the departments operated and were set up
• Are they providing patient communications?
  ▫ Is the patient given required notice including expected financial obligation?
  ▫ Is the required notification posted for patients to see?
• Are any other departments using the same space?
• Does the staff know about EMTALA requirements?
• Geo-pin

*Some management did not realize their department was a hospital department*
Research & Collaboration

- Hospital license/license application – is the department listed?
- Medicare application/855a – is the department listed?
- Cost report & detail trial balance – is the department included?
- Provider credentialing database – are the providers privileged?
- Org Charts – is there a reporting relationship to the hospital?

Research & Collaboration

- Policies and Procedures – do they apply to the department same as the hospital?
- Floor plans – is there any shared space?
- Website – does it list the department as being part of the hospital?
- Billing – professional and facility claims
  - place of service codes
  - on/off campus modifiers
  - claim types
  - 3-day payment window
Special Considerations

- Is the department part of a joint venture?
- Is the department operated under a management contract?

Challenges & Learnings from Assessment

- How should we compile the results?
  - Lots of information
  - Overwhelming to comprehend
- At time there were gaps in information that required additional research
  - Physician privileges
  - Billing information & Processes
  - Information Services
- Life Safety
  - Had these locations been evaluated for compliance with hospital life safety requirements?
We Have Findings - Now What?

- Reached out to Project Management for input on how to compile/manage/share such a large amount of information
- Shared initial findings with Senior Leadership
  - Signage identified as first priority
- Determined responsible leadership to address corrective actions
- Developed a Steering Committee and sub-committees to manage the work

Compiling Findings
Compiling Findings

Grouping Findings & Setting Priorities

- Deficiencies defined by level of corrective action complexity
  - Red - Difficult to solve due to multiple parts for correction (ex: shared space)
  - Yellow - Easier to solve but involves multiple stakeholders (ex: reporting structure)
  - Green - Easiest to solve (ex: update hospital license)
Defined Sub-Committees

- Three sub committees developed to address each priority bucket
  - **Green Team**: Patient Communications and Staff/Management Education
    - Team members: Led by Compliance with operational management involvement
  - **Yellow Team**: Define reporting relationships for each licensed hospital and associated entity
    - Team members: Led by a Senior Executive with involvement from Compliance, Accreditation and hospital leadership
  - **Red Team (Complex Group)**: Solved for any moves, construction, changes in PBD status, etc.
    - Team members: Led by Senior Executive with designated project manager. Involved input from Facilities Management, Operations, Legal, Compliance, Accreditation, & Finance

Training & Education

- Immediate training
  - Leadership
  - Staff
- Ongoing training
  - How to make sure new staff and leaders understand Provider-Based Designation
- Elements of Training
  - Terminology
  - Reporting relationships
  - Signage/required notices
  - Patient communications
  - Etc.
Next Steps

Development of an annual attestation process
• Part of Compliance Annual Work Plan
• Based on Assessment Tool
• Survey format sent to operational leaders to complete
• Results compiled and evaluated by Corporate Compliance

Going Forward

We don’t want to create new problems
• Education beyond operations: The ‘eyes and ears’ of the organization
  ▫ IS&T Project Management – requests for new department for scheduling/billing
  ▫ Strategy – planning for new business and service lines
  ▫ Finance – requests for new cost centers
  ▫ Environmental Services – requests for new space or relocations
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