Practical Design Approaches and Elements for Compliant Compensation Arrangements
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Discussion Agenda

• Internal Control Needs for Compensation Plan Design
• Strategies for Aligning Work Effort with Compensation Terms
• Differences between “Cost” and “Value”
• Best Practices in Compensation Caps

*FUNDAMENTAL QUESTION IN COMPLIANCE: “MAY WE?”*
Compensation Plan Design Needs

**Strategic**
- Encourage Productivity
- Enhance Engagement
- Promote Care Coordination
- Improve Network Integrity
- Manage Population Health
- Promote Team-Based Care
- Improve Recruiting & Retention

**Compliance**
- Accurate
- Replicable
- Reliable
- Predictable
- Fair Market Value
- Commercially Reasonable
- Financially Sustainable

Key Control Areas

WHERE IS MAJORITY OF RISK? PRICE OR QUANTITY??

- Key regulatory tenets of physician compensation include:
  - **Stacking**: a physician can only be paid for one thing at a time
  - **Existence**: payments must only be for work actually performed
  - **Necessary**: the work performed must be a needed service or otherwise rational in light of the organization’s mission, etc.
  - **One-Person Test**: the sum payments for each individual service need to be reasonable when considering all in aggregate
  - **Commercially Reasonable**: the business arrangement makes sense in the absence of a referral relationship, including consideration of partner selection & business rationale

PRIOR SLIDE COMPLIANCE ELEMENTS TRYING TO CONTROL FOR THESE RISKS
Recommendations

• Policies and Procedures must exist with respect to administering physician compensation arrangements that define:
  • Sources of information
  • Applicable date ranges
  • Control over, review of, and application of functional data for contract adjudication, including
    • Billing information
    • Quality information
    • Operations / scheduling (such as call shifts, ER shifts, etc.)
    • Human resources (time off, phantom credits, disability, etc.)
    • Accounts payable (allowable expenses)
  • Applicable reconciliation periods

HAVING A “CONTROLLED” SANDBOX IS A MUST FOR PROJECTING FUTURE ANTICIPATED COMPENSATION

Data Integrity Example for Compensation Design Planning

Current Pay Structure:
• 120 12-hour shifts paid at $200 per hour or $2,400 per shift
• Extra Shift pay at $250 per hour or $3,000 per shift
• Any hours over 12 hours in a single shift are paid at $300 per hour

Proposed Pay Structure:
• Physician required to serve 1,500 hours of baseline work for base pay of $300,000
• All hours in excess of 1,500 are paid at $275 per hour

What is the economic impact of this change if work effort is as follows:
• Physician works 120 normal shifts
• Physician works 30 extra shifts
• Physician works beyond a twelve hour shift by 100 hours
**Method Change Impact Example “A”**

<table>
<thead>
<tr>
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<th>Current</th>
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<td>Percent Difference</td>
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**Method Change Impact Example “B”**

**WHAT IF RECORD KEEPING IS INDICATES THAT A NORMAL SHIFT IS 11 HOURS??**

<table>
<thead>
<tr>
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<th>Current</th>
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<th>Proposed</th>
<th>%</th>
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</thead>
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<td>71%</td>
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<td>81%</td>
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<td>Extra Shift Pay</td>
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<td>Percent Difference</td>
<td>-9.6%</td>
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Risk Management – Internal Skillsets

**Internal Controls**
- Compliance approach integrated with common oversight
- Routine risk assessments
- Integration with Internal Audit
- System of policies and procedures
- Technical oversight on data elements
- Reconciliation to contract terms and other contract administration
- Data extraction and application
- Development and retention of documentation
- Operational approvals

**Fair Market Value**
- Compliance Dashboarding
- Continuous data analytics
- Ongoing risk scoring
- Outside opinions
- Stacking analysis
- Compensation committee
- Rebuttable presumption of reason
- Reference surveys
- Market data benchmarking

**Commercial Reasonableness**
- Formal approach: Documenting specific policy, standards and approvals
- Multi-disciplinary deal assessment and documentation (Compliance and Legal departments)
- Operation and business development deal assessment

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**Policy Control Procedures**

- The policy control process ("PCP") for physician compensation should give detailed consideration to:
  - Contract detail verification process
  - Productivity input process (e.g. verifying wRVU levels)
  - Work effort documentation procedures (shift, hourly time & administrative input verification processes)
  - Quality & outcomes measures verification process
  - Compensation & bonus accuracy verification processes
  - Financial reporting & accrual verification process
  - Allowance & Benefits Team (allowance input & payment verification process)
- The PCP should be tailored to fit each hospital’s risk profile
Compensation & Work Effort Should

- Be Fair Market Value (Commensurate)
- Reward Personally Performed Services
- Not take into account the value or volume of Designated Health Services
- Not take into account profit or downstream revenue
- Have internal equity (?)
What is an FMV Compliant Arrangement?

- Three Parts to a FMV Analysis
  1. Anticipated compensation per contract(s)
  2. Benchmarking of work effort as informed by relevant facts and circumstances under a standard of value
  3. Comparison of anticipated compensation to benchmarked range

- Compensation Plan Design Relates to Item 1
- Compliance Relates to Item 2

*STRATEGIC ALIGNMENT OF 1 & 2 THEN NECESSITATES CONTRACT PAYMENT STRUCTURE IS BASED ON STRUCTURED, CONTROLLED DATA FOR WHICH A MARKET VALUE CAN BE ASSIGNED*

Work Effort Types

- Clinical
- Supervisory
- Teaching
- Administrative
- Leadership
- Call Coverage
- Medical Direction

*“RATES” CAN BE ASSIGNED TO ALL OF THESE, BUT CAN UNITS BE OBTAINED RELIABLY?*
Compensation Plan Design Truths

• More Complexity Requires More Controls
• More Complexity Adds Time and Cost
• Less Complexity Drives a Gap Between Compensation and Work Effort
• Use of Third Party Surveys Invites Volatility in Results
• Most providers do not like change

KEY IS TO FIND SWEET SPOT WHERE ALIGNMENT IS CLOSE ENOUGH, BUT CONTRACT ADMINISTRATION IS REASONABLE

Recommendations

• Compliance Team Needs to Listen to Hopes of Strategic Team and Define What’s Possible in Current State of Funding/Staffing
• Any Contemplated Changes to Compensation Plan Design from an Administrative Standpoint Should be Part of Decision to Move Forward or Not
• Often the Development of Work Effort Measures can be Accomplished by Non-physician Clinic Staff (operations)
EVALUATING “COST” VERSUS “VALUE” IN COMPENSATION ARRANGEMENTS

What is a Cost v. Value Analysis?

• Three Parts to a Commercial Value Analysis
  1. Anticipated compensation per contract(s)
  2. Benchmarking of work effort as informed by relevant facts and circumstances under a standard of value
  3. Comparison of anticipated compensation to benchmarked range

• Item 1 is “Cost” as it shows up in financials
• Item 2 is “Value” as it represents expected work effort associated payment level (cost)

BY ADOPTING A “PRICING MODEL”, ONE CAN DETERMINE VALUE, COMPARE IT TO COST, AND MAKE GOOD FINANCIAL DECISIONS
Considerations in Developing a Pricing Model

• **Comprehensive & Componentized** - all material physician work effort is valued on a standalone basis
  - Patient Care Work Effort – typically CMS’ Work RVU scale
  - All Other Work Effort – time based approach (e.g., rate x hours)

• **Highest & Best Use** - Work that overlaps in time is valued at the highest value and secondary work is not also valued

• **Realistic Cost to Employ Data Utilized** – Pricing Values Need to Reconcile to Reasonable Levels of Total Compensation

• **Coverage v. Productivity** – For physicians whose work requirements are coverage-based (such as hospitalists), we consider hourly rates for clinical work effort instead of “re-priced” wRVUs

Once Priced, Physician Work Can Be Appropriate “Costed”

**Employed physicians are routinely asked to contribute via:**

- Clinical productivity (assign cost to clinic)
- Call compensation (assign cost to hospital)
- APP supervision (assign cost to clinic)
- Medical direction (assign cost to hospital)
- Clinical quality efforts (assign to ACO/CIN)
- Other time based services, such as teaching, research, administrative tasks, etc. (assign to “consumer” of time)

**Internal Pricing Model**

Regardless of what the contact calls for in terms of payment mechanisms, an internal pricing model can be used to assign a physician’s cost into appropriate buckets.

*Accomplish by establishing & adopting a standard pricing model*
Policy: Internal Valuation Methodology Procedures

- The strongest internal FMV compliance approach is formal protocol for evaluating compensation terms, an “internal valuation methodology memo”
- Based on standardized treatment of common deal terms, a uniform evaluation of FMV can be applied
- For arrangements that don’t fit the internal pricing model, the methodology will describe an exceptions protocol to trigger additional approval and/or outside review
- An entity-specific methodology & accompanying Excel-model to rapidly process evaluations can be tailored to fit the risk profile of the hospital
- The same model can be used for provider services pricing of work effort, related cost allocations, and financial decision-making concerning the value of personally performed work effort.

Management’s FMV Risk Management Internal Controls Objectives (1/2)

10% MORE EFFORT THAN BEST PRACTICE FROM A FMV COMPLIANCE RISK MANAGEMENT PROCESS CAN GENERATE A CONSISTENT PRICING / COSTING MECHANISM TO GREATLY ENHANCE FINANCIAL DECISION MAKING IN PHYSICIAN OPERATIONS

- Appropriate oversight and approvals (Operations)
- Adherence to contract terms and verification of the same (Finance)
- Processes for timely contract renewals (HR/legal)
- Compensation / fee setting processes and related management approvals (Finance)
- Verification and periodic testing of WRVU calculations and other productivity inputs to calculation models (Finance / Internal Audit)
Management’s FMV Risk Management Internal Controls Objectives (2/2)

- Restrictions and close review of credit for “Designated Health Services and ancillary services credit in compensation arrangements (Compliance / Finance)
- Reconciliation and review of allocations of productivity credit regarding mid-level providers services (Operations)
- Use of internal valuation methodology memos to consistently establish and approve FMV (Compliance / Finance)

EFFECTIVE USE OF COMPENSATION LIMITERS
Cost Containment – Structural Spending Plans

• Regardless of the specific compensation plan design elements, all clinic-based/productivity-based providers can have their net loss amount “boxed in”

• There is a financial analysis that focuses on actual & target contribution margin above a base compensation threshold.

• Compensation plan productivity bonuses can be set to isolate a fixed loss level.

• This creates certainty with respect to annual investment & allows for more stable service line plan development

• Overall limits can also be applied as tied in with cash collections to enhance compliance from the standpoint of increased sustainability.

Structural Loss Analysis – Part 1

Baseline:

<table>
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<tr>
<th>Base Plus Bonus Model</th>
<th>Total</th>
<th>Per Visit</th>
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<td>Visits</td>
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<td>Revenue</td>
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<tr>
<td>Net Income/(Loss)</td>
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Physician Compensation per Unit $ 50
## Structural Loss Analysis – Part 2

Flat Physician Comp/WRVU Bonus @ $60/visit

<table>
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<th>Marginal</th>
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</thead>
<tbody>
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<td>(visit 6,001)</td>
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<tr>
<td>Revenue</td>
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<td>Practice Expense - Variable</td>
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**Physician Compensation per Unit** $53.33

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## Structural Loss Analysis – Part 3

Increasing Physician Comp/WRVU Bonus Tiers

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<th>Practice Growth of 2,000 Visits</th>
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<th>Marginal</th>
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<tbody>
<tr>
<td>Visits</td>
<td>6,000</td>
<td>n/a</td>
<td>(visit 6,001)</td>
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<tr>
<td>Revenue</td>
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<td><strong>Net income before Physician Expenses</strong></td>
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<td>52.50</td>
</tr>
<tr>
<td>Physician Expense - Fixed</td>
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<td>33.33</td>
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<td>Physician Expense - Variable</td>
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<td>70.00</td>
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**Physician Compensation per Unit** $55.00

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Structural Loss Analysis – Part 4

Decreasing Physician Comp/WRVU Bonus Tiers

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<td>(visit 6.001)</td>
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<tr>
<td>Revenue</td>
<td>600,000</td>
<td>100.00</td>
<td>95.00</td>
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<td>Physician Expense - Variable</td>
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<tr>
<td>Net Income/(Loss)</td>
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Physician Compensation per Unit 53.17

Structural Loss Analysis – Conclusion

• Effective physician compensation per unit is similar under all three growth scenarios
  • Constant Bonus Rate: $53.33
  • Increasing Tiers: $55.00
  • Decreasing Tiers: $53.17

• Alternatively, implementing compensation caps tied to collections (or both) can achieve a similar effect

• Philosophically, a declining productivity pay amount is a good tool to disincentivize physician burnout, a key driver of turnover
As Total Compensation Rises, Compensation per wRVU Falls