INDIANA NURSING FACILITY SUPPLEMENTAL PAYMENTS — *EIGHT YEARS LATER*

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GOALS FOR TODAY

1. The Word from D.C.
2. National Landscape – States with Programs & How Does Indiana Compare
3. What the Future May Hold
4. Where Should Participants Focus?
5. Q&A

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The Word from D.C.

Less than Rave Reviews	A Few Bad Actors	Actions Taken to Limit Expansion

Less Than Rave Reviews

- *"Focusing on States' exploitation of Medicaid "upper payment limit" regulations governing enhanced payments to public providers, the OIG concluded that some States' use of intergovernmental transfers was a financing mechanism designed to maximize Federal Medicaid reimbursement."*

  US Department of Health and Human Services
  Office of Inspector General – Report to Congress

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Less Than Rave Reviews

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  Office of Inspector General – Report to Congress

  April – September 2001

Less Than Rave Reviews

"One major concern has been about private/public arrangements that allow transfers of ownership between such entities to allow the use of IGTs. For example, CMS has received State requests to allow supplemental payments to private nursing facilities that lease their facility license to a local government entity that then contract back with the private owner to manage and operate the facility. This happens only on paper, and day to day operations of the facility continue unchanged. Federal rules would ordinarily prohibit a private nursing facility from providing the State match responsibility though a donation to the State. But under this arrangement, States would declare that the non-Federal share of Medicaid funding would be derived from an intergovernmental transfer (IGT) from the local government entity that leased the facility's license, when in reality it originates from the private provider."

Seema Verma, Administrator, CMS, August 21, 2018

A Few Bad Actors

Georgia – "… we request the State Medicaid Agency return $105,527,207"

"Georgia DCH devised a funding arrangement whereby unrelated public development authorities served as a pass-through for the state share of UPL payments for private providers. The state share, whose funding came from private limited liability companies (LLCs) that owned nursing facilities, is being presented as IGTs from the unrelated public development authorities."

"During our review period, DCH reported that thirty-five of its nursing facilities participating in Georgia's Nursing Facility UPL IGT Program are "owned" by local development authorities. DCH reported that these development authorities are the owners of the facilities and are the source of the funding of the IGTs for the UPL payments for the facilities. Facts gathered during our review revealed that these nursing facilities are actually privately-owned."

CMS, December 8, 2014

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Limits on Expansion

Medicaid Managed Care

Phase Out –
SNF = 5-yrs
Hospital = 10 yrs

SPA Language - State

South Carolina – eligible provider must own the physical plant of the nursing facility

SPA Language - Feds

Louisiana – names please?

Lack of Political Will

Delay, Delay, Delay

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NATIONAL LANDSCAPE

1. Many types of Supplemental Payment programs
2. Federal program – States have design flexibility but must “apply” to participate
3. Fiscal impact
4. Other states with similar programs

Fiscal Impact – MACStats 2017

Supplemental Payments:

- *Hospitals - $43,000,000,000 (49%)*
- *Mental Health Facilities – $3,150,000,000 (58%)*
- *Nursing Facilities (ICF / IDD) - $3,550,000,000 (7%)*
  - *Indiana – $997,000,000*
- *Physicians - $860,000,000 (8%)*

https://www.macpac.gov/publication/medicaid-supplemental-payments-to-non-hospital-providers-by-state/

Other States with Similar Programs

- Georgia - 48 SNFs remain. $130 million - $57/day

- Mississippi – 18 SNFs, $32 million - $31/day

- Virginia – 10 SNFs, $12 million - $99/day

- Utah – 31 SNFs, $83 million - $87/day

- Wyoming - $30 million

- Others: Idaho, Louisiana, Pennsylvania, Texas, New York, Colorado, South Carolina

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Where Are We Headed

Transparency and Accountability – CMS / OIG

Quality Component

IGT Scrutiny – not only at the State level anymore

Form Matters

“Efficiency, Economy and Quality of Care” - FMAP

Where Are We Headed

- Closer to Home

CMS 2019 Review:

- *"The primary objective for the review is to determine whether the funding arrangements for the program are consistent with statutory and regulatory requirements."*

Requested from Seven (7) Operators:

- *Copies of all UPL related policies and procedures*
- *List of NFs owned and ownership type (lease, sublease, own assets)*
- *Copies of all Supplemental Payment and IGT agreements with the state, operations transfer, management and lease agreements*
- *Copies of bank statements showing deposit of supplemental payments and transfer of IGT funds*

Where Should We Focus

- Must be able to demonstrate how payments contribute to the **“efficiency, economy and quality of care”** of residents
  - CapEx
  - Training
  - Expanded services
  - Staffing ratios
  - QUALITY
- **Form does matter**
  - Regular hospital board meetings
  - External AND internal communications
  - Flow of cash
  - Dot “i’s” and cross “t’s”

Where Should We Focus

- **Form does matter (continued)**
  - Financial reporting timely
  - Management fees and rents approved before payment
  - Operating and CapEx budgets prepared annually
  - Rents being charged properly consider any escalations per the lease
  - How does the Hospital demonstrate oversight

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CPAs & Advisors

THANK YOU

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Questions?

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