Physician Compensation and COVID-19: Then and Now and Now What?

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Agenda

1. Introductions
2. Physician Compensation and Employment
   - A. During COVID-19
   - B. After COVID-19
3. The Future of Physician Compensation
4. Regulatory Changes

Introductions

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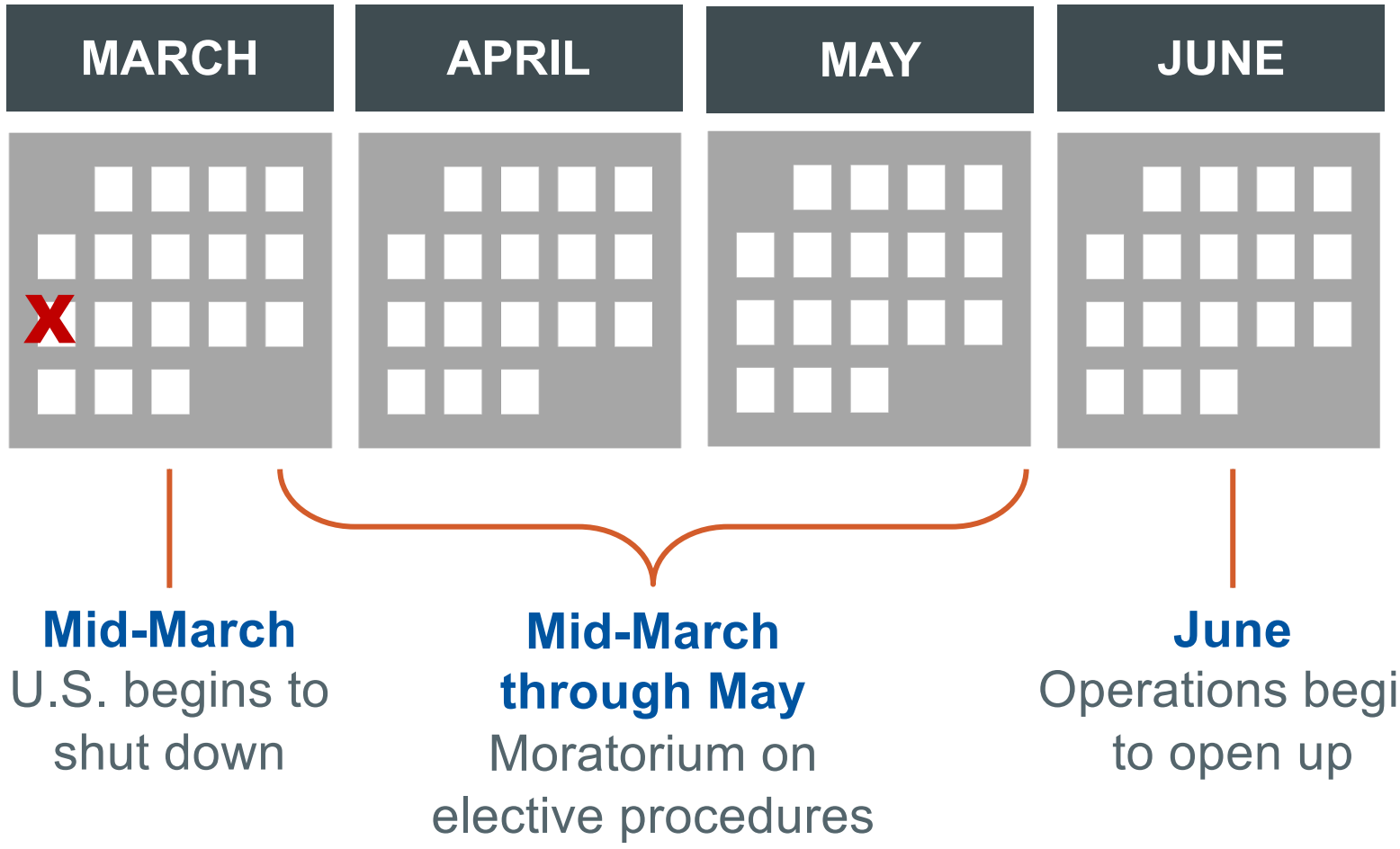
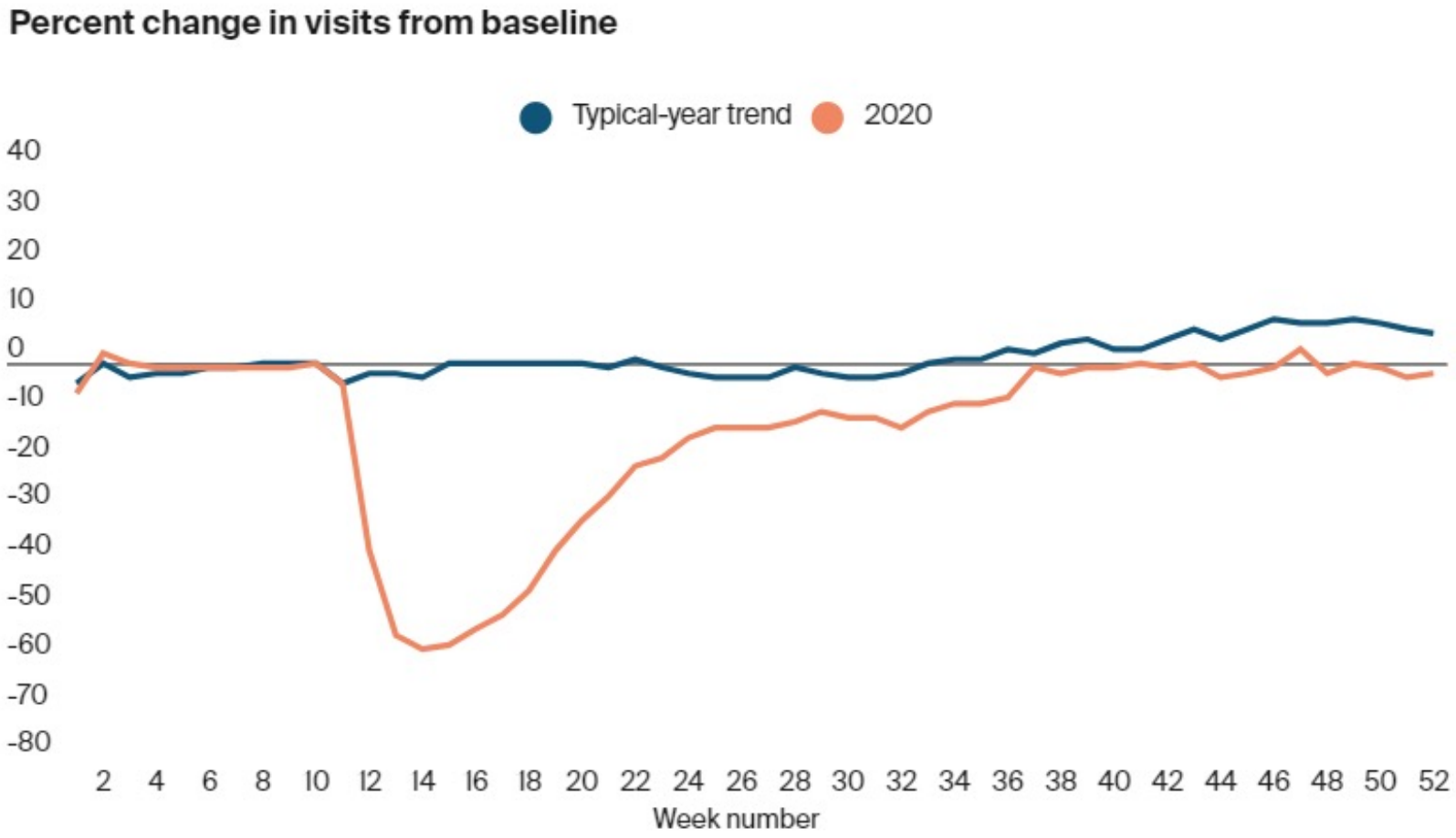
Life During COVID-19

Timeline


MARCH
APRIL
MAY
JUNE
X
Mid-March
U.S. begins to shut down
Mid-March through May
Moratorium on elective procedures
June
Operations begin to open up

Patient Volume During COVID-19[1]



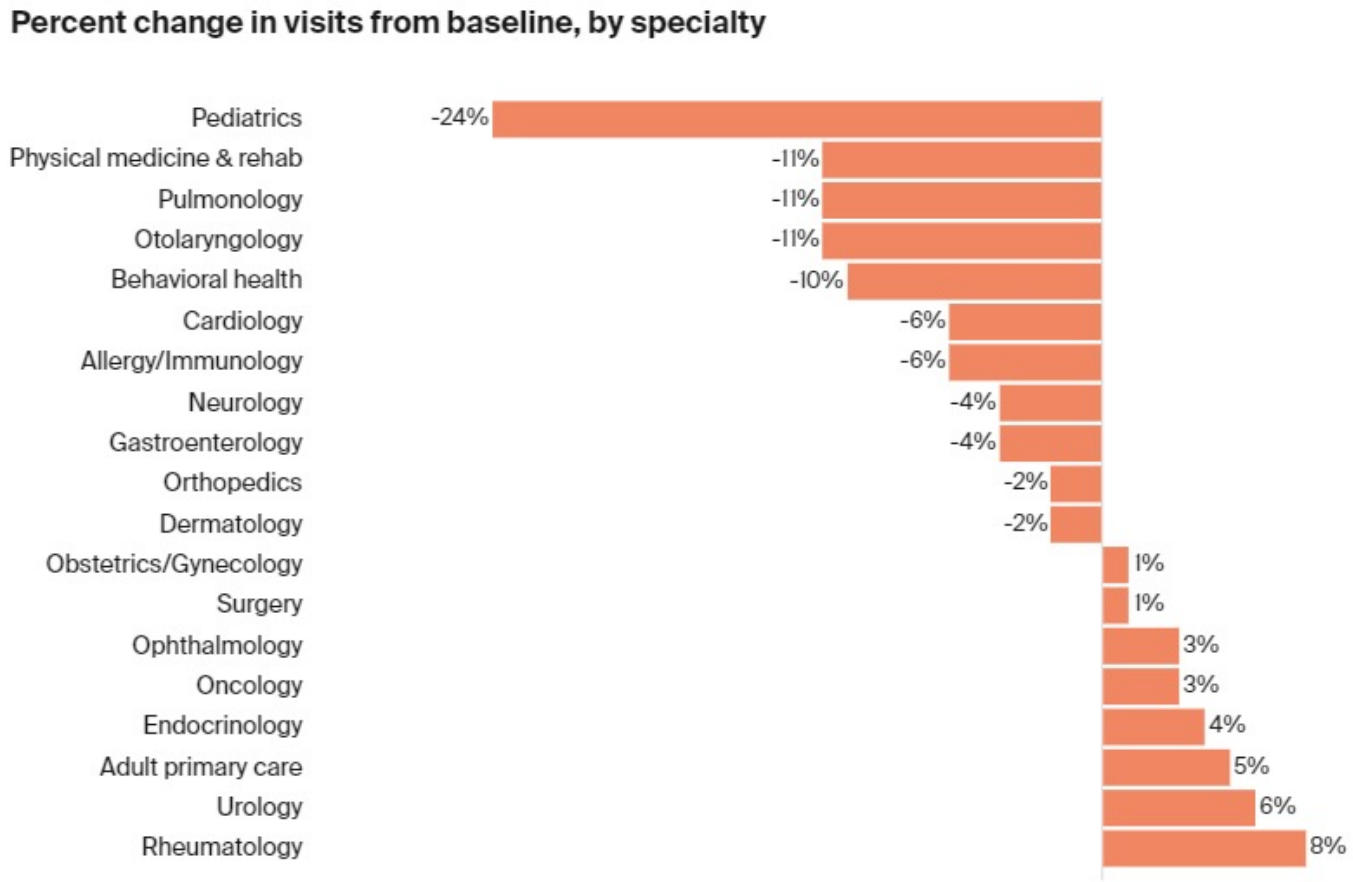
1) https://www.commonwealthfund.org/publications/2021/feb/impact-covid-19-outpatient-visits-2020-visits-stable-despite-late-surge.

The Impact COVID-19 Had On Healthcare

- Certain physicians (e.g., gastroenterologists, ophthalmologists, dermatologists, etc.) struggled to find jobs as the U.S. health system grinds to a halt.
- Demand for pulmonologists/critical care physicians, and infectious disease physicians grow.
- Approximately 70% of physicians provided fewer visits (in-person + telehealth). [2]

2) https://www.ama-assn.org/press-center/press-releases/ama-survey-finds-physician-practice-viability-under-threat

Patient Volume During COVID-19 (*cont.*)[3]

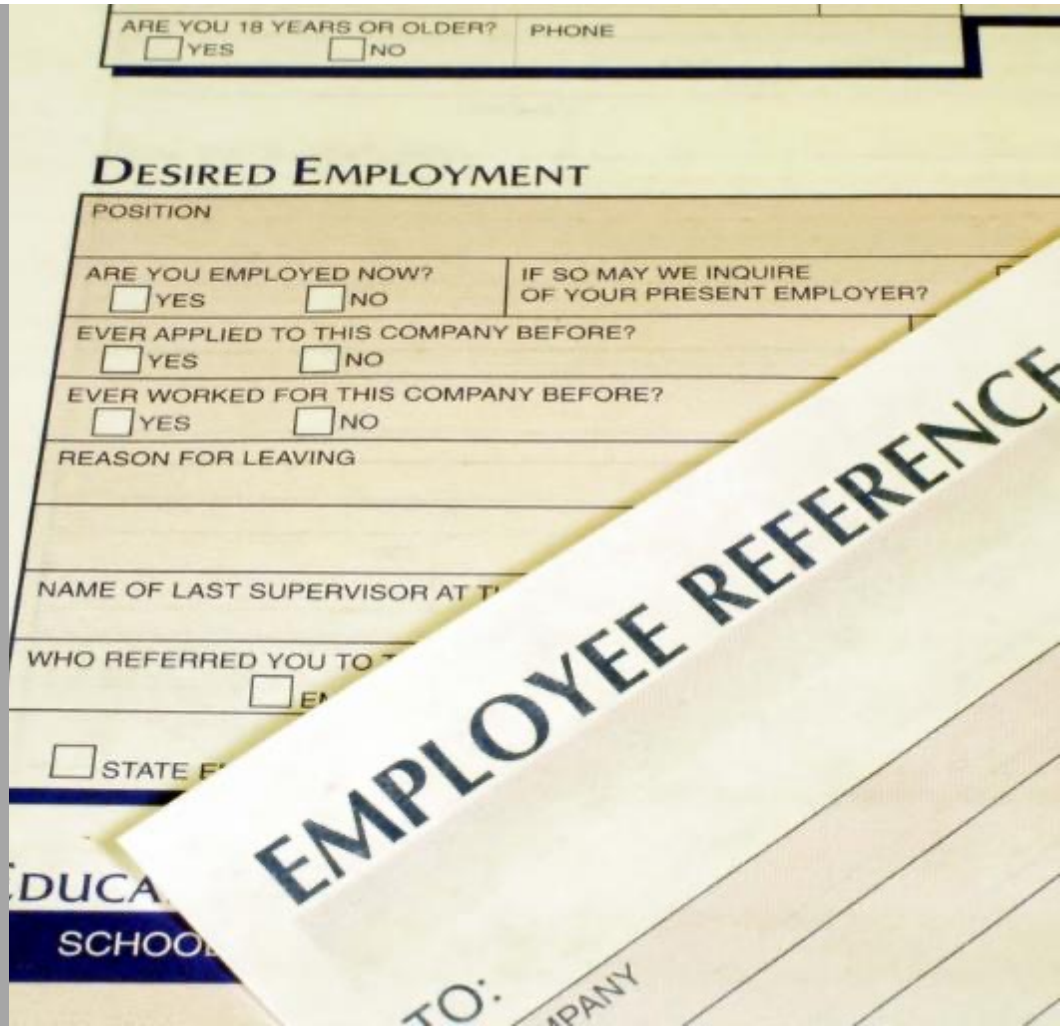


Data from the last three full weeks of 2020 compared to pre COVID-19 numbers (Baseline: March 1 – 7).

3) https://www.commonwealthfund.org/publications/2021/feb/impact-covid-19-outpatient-visits-2020-visits-stable-despite-late-surge.

Physician Contracts During COVID-19

- Employed and independent contractor physicians:
  - Physician specialties that were negatively impacted by COVID-19 (e.g., gastroenterologists, ophthalmologists, dermatologists, etc.) received pay-cuts or were furloughed.
  - Physicians that had productivity-based compensation models naturally received pay cut as wRVUs (production) slowed down during the shutdown.
  - Other physicians who were struggling to meet expectations of hospital management prior to COVID-19 were fired in order to cut costs.



Physician Group Owners During COVID-19

- Physician group owners:
  - Depending on the physician specialty, some physician practice owners took a pay cut as patient volume decreased in 2020.
  - Physician owners took advantage of government funding (CARES Act and Payroll Protection Program) in order to keep the door open.
  - Some physicians closed their practice all together during the worst months of COVID-19.

Physician Compensation During COVID-19 From a Valuation Perspective

- Hospitals and healthcare systems are typically limited by certain federal regulations (e.g., Stark Law or Federal Anti-Kickback Statute) which govern and regulate the compensation paid to physicians.
- During COVID-19, due to the public health emergency declared on January 31, 2020, the federal government issued waivers for or expressed that they will not enforce certain laws which govern fair market value physician compensation.
  - Purpose: To provide flexibility to hospitals and healthcare systems so they can employ adequate staff.
  - Note: State-law provisions will not always be waived automatically.

Compensation And Productivity By Specialty During COVID-19[4]

Compensation And Productivity By Specialty

Specialty	2019 - 2020 Change in Median Total Compensation	2019 - 2020 Change in Median wRVUs	Percentage Difference, Rounded
Pediatrics (general)	6.00%	-11.76%	18%
Family Medicine (without OB)	3.94%	-11.10%	15%
Gastroenterology	0.67%	-13.70%	14%
Internal Medicine (general)	2.73%	-10.93%	14%
Neurology	1.44%	-11.68%	13%
Orthopedic Surgery (general)	1.67%	-11.65%	13%
Surgery (general)	0.40%	-11.19%	12%
Urology	0.12%	-11.89%	12%
Cardiology (invasive)	2.61%	-5.45%	8%
Obstetrics/Gynecology (general)	0.35%	-7.24%	8%
Hospitalist (internal medicine)	0.14%	-6.79%	7%

4) Per the MGMA 2021 Provider Pay and the Pandemic Report

Life Post-COVID-19


HELP!

Looking Into The Future: Physician Agreements

- **Force majeure clauses**
  - Clause that free parties of contractual obligations if certain unforeseen events occur.
- **Compensation**
  - Residents, fellows, and physicians typically have agreements that include a base salary.
  - However, moving forward, providers should make sure agreements clearly outline how a pandemic like COVID-19 will impact compensation tied to performance.

Looking Into The Future: Physician Agreements (*cont.*)

- **Duties and moonlighting**
  - During the pandemic certain physician specialties were forced to provide services outside of their typical specialty because of urgent needs.
  - Physicians need to read their agreement to make sure that it is their own choice whether or not to accept these different positions during future public health emergencies.
- Don’t be afraid to re-negotiate or amend your current agreement because of changes from COVID-19.

Looking Into The Future: Physician Compensation

- COVID-19 has reminded us that no industry is untouchable. We need to consider the future and how to structure physician compensation models to withstand the next downturn.
- Historically, physician contracts make up roughly 5% to 10% of average hospital net patient revenue. In addition, the projected annual growth of physician contracts is 5.4%.[5]
- The use of value/quality-based payment incentives continues to increase, 64% in 2020.[6]

5) https://www.beckershospitalreviewcom/hospital-physician-relationships/the-future-of-physician-compensation-in-a-changing-regulatory-landscape-4-things-to-know.html

6) Merritt Hawkins 2020 Review of Physician and Advanced Practitioner Recruiting Incentives and the Impact of COVID-19

Looking Into The Future: Physician Compensation (*cont.*)

- **Physician compensation from the hospital/healthcare system perspective:**
  - Fear of a future pandemic will likely impact the structure of future physician compensation arrangements.
  - Hospital leadership should evaluate physician agreements and consider the liability of guaranteed physician compensation for certain specialties.
  - Negotiate with physicians to include contract clauses that will allow financial flexibility for future pandemics/national disasters.

Looking Into The Future: Physician Compensation (*cont.)*

- **Physician compensation from the physician side:**
  - Negotiate guaranteed base compensation (if not already included in the current agreement).
  - Limit the amount of “at-risk” compensation associated with the level of production (wRVUs) if you are risk adverse.
  - If engaged in a fee for service type compensation model, negotiate to add clauses in the agreement which will protect you from a future shutdown (e.g., reasonable guaranteed base compensation).

Quality/Value-Based Compensation Models

Quality/Value Based Compensation Models (*cont.*)

- Keeping physicians who are “burned out” and who may have received a pay cut during COVID-19 can be a challenge.
- Changing from a productivity-based compensation model to a value-based compensation model can increase physician satisfaction and reduce burnout.
- Identify results that are desired and work with the physician to develop metrics to measure the results.
- Quality metrics must be tangible, take effort to achieve, and can be tracked.
- PYA has created quality metric dashboard for our clients.

Looking Into The Future: Financial Assistance

- The way that we think about financial assistance arrangements will forever be changed because of COVID-19.
  - COVID-19 has shown the medical industry that it isn't invincible.
  - Clauses will be added, and terms will be renegotiated in financial assistance agreements in order to protect both the physicians and the hospital.

Looking Into The Future: Physician Compensation Summary

- COVID-19 has made a lasting impact on how physicians view their work.
- Hospitals must be ready for renegotiations as physicians want to restructure their agreements in anticipation of a future public health emergency.
- Determining the right “quality” metrics will continue to be a challenge as the percentage of productivity bonuses is based on “quality” metrics.
- The continued expansion and demand for telemedicine services will likely start to impact the physician arrangements that we see.

Regulatory Changes

Stark Law Final Rule and Impacts on Physician Compensation

Final Rule

- **November 20, 2020**
  - CMS and OIG issued 627-page final rule to clarify Stark Law regulations
    - Effective January 19, 2021
    - Extension granted until January 1, 2022 for compliance related to certain changes required in group practice compensation methodologies
  - Changes aimed eliminating regulatory restrictions that could deter some arrangements as industry continues move toward value-based healthcare system
  - Formally establishes a definition of commercial reasonableness, while deleting outdated Stark Law references and updating key definitions such as fair market value, designated health services, physician, referral, remuneration, and transaction.

Three Takeaways

1

Benchmark Data and Fair Market Value

- **Surveys are a starting point and not the finish line.**
  - CMS indicates ***"[W]e continue to believe that the fair market value of a transaction…may not always align with published valuation data compilations, such as salary surveys. In other words, the rate of compensation set forth in a salary survey may not always be identical to the worth of a particular physician's services." "….Consulting salary schedules…is an appropriate starting point in the determination of fair market value, and in many cases, it may be all that is required."***

Three Takeaways

2

75th Percentile as a Guardrail

- CMS states it ***"declines to establish the rebuttable presumption and 'safe harbors' [e.g., based on a compensation range of salary survey data] requested by the commenters. We are uncertain why the commenters believe that it is CMS policy that compensation set at or below the 75th percentile in a salary schedule is always appropriate, and that compensation set above the 75th percentile is suspect, if not presumed inappropriate. The commenters are incorrect that this is CMS policy."***

Three Takeaways

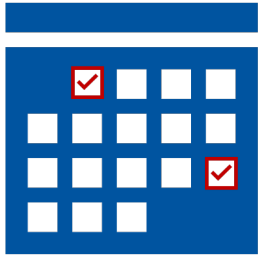
3

Profitability and Commercial Reasonableness

- CMS expresses ***"an arrangement may be commercially reasonable even if it does not result in profit for one or more of the parties."***
- Therefore, while such a situation (e.g., a non-profitable arrangement) may present a problem, CMS is not expressing a definitive opinion on the matter, as each arrangement is facts and circumstances specific.
- Further, CMS expresses that it could see certain arrangements with facts and circumstances whereby a non-profitable arrangement is commercially reasonable.

2021 Medicare Physician Fee Schedule (MPFS) Final Rule and Impacts on Physician Compensation

Calendar Year (CY) 2021 Physician Fee Schedule Update



On **December 1, 2020**, the CMS released the 2021 MPFS Final Rule.

On **December 27, 2020**, the Consolidated Appropriations Act, 2021 modified the 2021 MPFS Final Rule.

- Provided a 3.75% increase in MPFS payments for CY 2021.
- Suspended the 2% payment adjustment through March 31, 2021
- Reinstated the 1.0 floor on the work Geographic Practice Cost Index through CY 2023.
- Delayed implementation of the inherent complexity add-on code for E&M services (G2211) until CY 2024.

CY 2021 Physician Fee Schedule Update (*cont.*)

	Weighted Average Proposed Rule Impact	
Specialty	**"Per Unit" Medicare Reimbursement**	**"Per Unit" Work RVU**
Orthopedic Surgery	**-10.34%**	**-1.60%**
Interventional Radiology	**-9.79%**	**0.00%**
Ophthalmology	**-7.89%**	**0.40%**
Diagnostic Radiology	**-7.71%**	**0.00%**
General Surgery	**-6.21%**	**3.61%**
Gastroenterology	**-6.20%**	**3.95%**
Cardiology	**-1.39%**	**8.96%**
OB/GYN	**-0.16%**	**9.73%**
Internal Medicine	**0.54%**	**11.70%**
Urology	**0.81%**	**8.81%**
Neurology	**2.67%**	**14.44%**
Psychiatry	**3.35%**	**14.57%**
Family Practice	**7.06%**	**20.55%**

Proposed 2022 Medicare Physician Fee Schedule Updates

- On July 13, 2021, the CMS published the 2022 Medicare Physician Fee Schedule Proposed Rule.
- The 1,747-page document covers topics such as telehealth services and changes to other healthcare services, including:
  - Conversion factor reduction (and resulting payment cuts)
  - New coverage for tele-behavioral health services
  - Evaluation & management visits changes
  - New coverage for remote therapeutic monitoring services
  - Launch of Merit-Based Incentive Payment System Value Pathways and other Quality Payment Program updates

Questions

Thank you!

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