Developing Hospital-FQHC Partnerships in a Changing Environment

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Affiliation Fundamentals

• What are the strategic, operational and mission issues prompting the collaboration?
• What are your Goals?
• What are the Conflicts of Interest?
• What are the advantages/disadvantages of the proposal and alternatives?
Affiliation Fundamentals

- Does the deal further your organization’s purpose?
- Importance of Board involvement: Duties of Care, Loyalty and Obedience to Purpose
- What are the financial ramifications? Consider cost avoidance (efficiencies)
- How will decisions be made?
- Term/Termination/Unwind Provisions are critical
Range of Collaboration Models

- Referral agreements
- Co-location arrangements
- Lease of personnel and services
- Transfer of primary care practices
- Formation of new entities
Arrangements of Interest Across the Country

- Limited services sites
- Emergency room care coordination
- Residency program collaborations
- Community benefit grant agreements
Limited Services Sites

- Site with limited scope of services and extended hours of operation
- Designed to be cost-efficient and convenient
  - FQHC offers same discounts off charges for low-income uninsured and underinsured patients
- Patients served at the limited services site must have reasonable access to the FQHC’s full scope of services at a nearby site
Emergency Room Care Coordination

• CMS guidance pertaining to 2006-2009 $50 million demonstration grant program to support alternative non-emergency services provider arrangements:
  • Stated that, after an appropriate EMTALA screening and non-emergency determination, patient can be offered choice whether to receive care from hospital or from alternative non-emergency services provider that is contemporaneously available
  • Explicitly recognized FQHCs (among other types of primary care providers) as appropriate alternate non-emergency services providers
Emergency Room Care Coordination

• **Models:**
  
  • Hospital refers patients who present with non-emergent/urgent conditions to FQHC’s existing site(s), possibly with transportation linkage
    • Q: before or after treating the patient?
  
  • FQHC locates personnel in hospital (or on campus) for purposes of intake, registration, making appointments for patients who present with non-emergent/urgent conditions
    • Q: for contemporaneous appointment in lieu of treatment in the ER or for follow-up appointment?
  
  • FQHC assumes operator status for hospital-owned ambulatory clinic or establishes FQHC site on or near hospital campus to provide an alternative to patients determined to have non-emergent/urgent conditions
    • Q: for full scope of FQHC services or limited service?
    • Q: 24 hours per day, 7 days per week or part-time?
Emergency Room Care Coordination

- The parties should address whether or not EMTALA screening personnel will be the ER treating clinicians (preferably not)
- FQHC clinicians should not perform EMTALA screenings
- Post-EMTALA referral protocols should be established, including documentation of patient choice
- Availability of hospital or FQHC personnel to make same-time appointments at the FQHC site
- Development, maintenance, and sharing of medical records should be addressed
Residency Program Collaborations

• Many FQHCs participate in some form of medical education collaboration, including serving as clinical training sites for physicians and other health professionals (e.g., medical assistants, nurses, and social workers)

• FQHC-Residency Program collaborative models include:
  • Residency Program rotation is established in an existing FQHC site(s)
  • New FQHC site(s) is/are established to serve as residency training site
  • FQHC assumes operational authority over a teaching hospital’s ambulatory care site(s) and the teaching hospital continues to operate the Residency Program
Community Benefit Grant Agreement

- In order to obtain HRSA approval to add a site to the health center’s federally approved scope of project, the health center must submit a pro forma demonstrating that it can operate the site on (at worst) a break-even basis
- A community benefit grant agreement
  - Provides for a grant of goods, items, services, donations, or loans that are medical or clinical in nature or relate directly to services provided by the health center as part of the scope of the health center’s Section 330 grant
  - Defrays the otherwise uncompensated costs of providing care to the health center’s patients
  - Furthers the charitable missions of the parties
  - Contains safeguards to protect against prohibited referrals or generation of business
- FQHC Grantee Safe Harbor under Federal Anti-Kickback statute: final OIG rule issued October 4, 2007 (42 C.F.R. 1001.952(w))
Formation of a New Entity

- **Types of entities**
  - **PMN** – practice management network
  - **ACO** – accountable care organization
  - **Multi-purpose networks** – integrated service delivery initiatives, healthy communities access programs
  - **MCNN** - managed care negotiating network
  - **PHP** - prepaid health plan
  - **MCO** – managed care organization (*e.g.* HMO)
Legal Considerations

- FQHCs and their strategic partners **must** address unique legal and policy considerations in developing collaboration arrangements:
  - Section 330-related laws, regulations, expectations and policies
    - Other PINs and Program Assistance Letters (PALs) (including PIN 98-23 – Program Expectations)
    - 45 CFR Part 74 (or Part 92): Procurement and property standards (incorporating OMB Circulars A-110 and A-122)
    - Rules related to FTCA coverage
    - Rules related to Section 340B discount drug pricing
  - Other federal/state laws—Medicaid/Medicare, Fraud and Abuse, physician self referral, tax law, antitrust, etc.
Collaboration Process: Getting to Yes

- Memorandum Of Agreement (including appropriate confidentiality terms)
- Planning and development (steering committee, planning teams)
- Due diligence
- Definitive agreements
- Board approvals
- Regulatory approvals
Questions?

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