June, 2005

Re: Pay for Performance Programs

Dear Provider:

Until recently, fee-for-service payment strategies utilized by third party health insurance plans, including Medicare, have traditionally ignored both quality and utilization (efficiency) factors. Now, a trend is developing towards the implementation of "pay for performance" programs (PFPs), which provide financial incentives to participating physicians who meet certain quality and/or utilization benchmarks. CMS, the American Medical Association ("AMA") and the Medical Group Management Association ("MGMA") have recently addressed the concept of pay for performance programs. While an official program, law or safe harbor has not yet been adopted concerning PFP programs, the approach and guidelines provided by Medicare, MGMA and the AMA may provide guidance on the proper structure of a PFP program in the absence of official parameters. For your information, the basic positions taken by these organizations are as set forth below.

A. Medicare

Medicare is in the process of developing and implementing a set of PFP initiatives for hospitals, physicians and physician groups. For example, physicians who are successful in promoting the adoption and use of health information technology (e.g., electronic medical records) to improve the quality of patient care for chronically ill Medicare patients may receive bonus payments. This "Bridges to Excellence" pilot program is currently underway in Arkansas, California, Massachusetts and Utah. Congress is working to continue to develop the widespread use of such programs for Medicare providers.

B. AMA

The AMA has adopted the following five principles it considers relevant to determining whether a PFP program is fair and ethical: 1) ensures quality of care; 2) fosters the patient-physician relationship; 3) offers voluntary participation; 4) uses accurate data and fair reporting; and 5) provides fair and equitable incentives.

C. MGMA

The MGMA has also adopted principles to help guide the development and implementation of PFP programs. The MGMA's principles include the following: 1) the primary goal of pay for performance programs must be improving health quality and safety; 2) medical group practice participation in pay for performance programs must be voluntary; 3) practicing physicians and physician professional organizations must be involved in the design of pay for performance programs; 4) physician performance measures used in pay for performance programs must be evidence-based, broadly accepted, clinically relevant, continually updated and developed by

practicing physicians; 5) physician performance data must be fully adjusted for sample size and case-mix composition, including factors of age/sex distribution, severity of illness, number of co-morbid conditions and other features of physician practice and patient population that may influence the results; 6) pay for performance programs must reward physician participation, including physician use of electronic heath records and decision support tools; 7) a Medicare PFP program must not be budget-neutral within the Medicare physician payment system or subject to artificial Medicare payment volume controls such as the sustainable growth rate; 8) PFP programs must reimburse physicians for any administrative burden for collecting and reporting data to payors; and 9) physicians must have the ability to review and correct performance data.

The above principles, while not law, may be used to develop a pay for performance program that is based upon industry supported guidelines. If you have been approached by an entity about the possibility of participating in a pay for performance program or would like to discuss how such a program may benefit you and your practice, please feel free to contact us.