AMERICAN SOCIETY FOR GASTROINTESTINAL ENDOSCOPY

Support physicians as they transition to new value-based payment models by creating early opportunities for success and eliminating regulatory barriers that impede advancement toward new payment and delivery designs.

MODERNIZING STARK LAW

ISSUE OVERVIEW: When Congress enacted the Medicare Access and CHIP Reauthorization Act, it replaced the SGR with a program promoting value-based care delivery. The Merit-Based Incentive Payment System (MIPS) and alternative payment models (APMs) utilize quality and resource metrics that emphasize care coordination by physician practices.

The Medicare statute includes physician self-referral prohibitions, known as the "Stark Law," that were enacted more than 20 years ago and pose barriers to the participation of physician group practices in APMs. The Stark Law is a labyrinth of exceptions, rules and regulations. Physician practices interested in innovative payment and delivery arrangements that have the potential to improve patient care and reduce costs are deterred by the mere threat of violating Stark, as well as the incredible cost of lawyers and consultants to ensure compliance.

A key impediment to APMs is that these types of arrangements inevitably link payments to the volume or value of physician referrals. Many of the Stark exceptions require that any compensation involved be calculated in a manner that *does not* take into account the volume or value of referrals or other business generated by the referring physician. This restriction impedes better management of a physician's referral patterns, utilization of ancillary services, and collaboration with high-quality or cost-efficient partners.

The Stark Law inhibits practices from incentivizing their physicians to deliver care more effectively. Congress recognized this long ago when it allowed CMS to waive the self-referral and anti-kickback provisions for accountable care organizations (ACOs). Like ACOs, APMs often incentivize physicians for delivering value — better patient outcomes and improved cost containment.

ASGE is encouraged the Department of Health and Human Services (HHS) is looking at how the Stark Law is inhibiting care coordination and care delivery innovation and is committed to achievable goals that can be put in place this year. Even in the anticipation of some level of action by HHS, action by Congress is complimentary and necessary

LEGISLATIVE ASK:

Cosponsor the "Medicare Care Coordination Improvement Act" upon reintroduction in the 116th Congress by Sens. Rob Portman (R-OH) and Michael Bennet (D-CO) and Reps. Raul Ruiz (D-CA) and Larry Bucshon (R-IN). The legislation would:

— Provide CMS the same authority to waive the Stark and Anti-kickback laws as was provided to ACOs in the Affordable Care Act; and

— Remove the "value or volume" prohibition in the Stark law so practices can incentivize physicians to abide by best practices and succeed in new value-based APMs. This protection would apply to practices that are developing or operating an APM, including physician-focused payment models; MIPS APMs; and other APMs specified by the Secretary.