Gainsharing, Shared Savings Examined
Karen Minich-Pourshadi, for HealthLeaders Media, August 28, 2012

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Whereas gainsharing is still viewed with apprehension by many in healthcare, shared savings programs are being embraced by hospitals nationwide. The two models pursue the same goal—to reduce costs without negatively impacting the quality of care—but there are unique legal and structural challenges that come with each approach; however, for hospitals and health systems willing to overcome some hurdles, both gainsharing and shared savings can add millions in sustainable savings to the bottom line.

Gainsharing tends to target device and supply usage within a specific service line, such as cardiology or orthopedics, whereas shared savings programs take a broad-spectrum look at cost reduction by targeting specific patient populations, such as diabetics.

“We're all trying to partner effectively with our medical staff to find savings. We've done a lot of initiatives, joint ventures, employment agreements and service line management agreements," says Robert Glenning, executive vice president and CFO at the 775-licensed-bed Hackensack (N.J.) University Medical Center. "Gainsharing and shared savings have been missing in our approach until recently. We recently added shared savings to our oncology service line."

HUMC's decision in the first quarter to pursue shared savings was based on the organization's strategic goal to reduce overall costs; but why not choose gainsharing?

"Gainsharing has been difficult to implement because of the process of obtaining an opinion from the Office of Inspector General, and it tends to work for a subset of physicians, like orthopedists or cardiac surgeons, but not all physicians. Though the OIG has granted waivers, it is complex to get those waivers; at least it was in the past. I think people are still uncomfortable with the waivers, which is why gainsharing has struggled," explains Glenning.

The Centers for Medicare & Medicaid Services has no fixed definition of gainsharing, but says the term generally refers to an arrangement in which "a hospital gives physicians a percentage share of any reduction in the hospital's costs for patient care attributable in part to the physicians' efforts." These agreements were initially found to violate the Civil Monetary Penalties Law, the Stark Law, and the anti-kickback statute, though they did demonstrate promise in cost saving when structured correctly.

Though the OIG can grant waivers to allow these arrangements to take place, the potential to violate several key statutes deterred most healthcare organizations from attempting the use of these agreements and cast a negative cloud around them, explains Addison, Texas–based healthcare attorney Cynthia Marcotte Stamer.

There is a key legal distinction between an accountable care organization shared savings arrangement and a gainsharing one, notes Marcotte Stamer. New shared savings rules outline detailed requirements pursuant to which ACOs can reward providers by providing shared savings. In contrast, if the ACO does not meet the ACO shared savings rules or the party other than an ACO offers gainsharing, "the gainsharing arrangement is presumptively against the law and participating parties are subject to enforcement, unless the parties seek and obtain an advisory opinion in which HHS agrees not to enforce the Stark, Fraud & Abuse, and CMP laws without revoking the ruling based on the gainsharing arrangement and the parties receiving that ruling in fact comply with the assumptions of the advisory opinion so as to qualify to rely upon that agreement not to enforce," she explains.

Moreover, each advisory opinion on gainsharing participation is directed specifically to that organization. "The ability to rely upon the [advisory opinion] remains limited to the requesting parties. The fact that a party has obtained an advisory opinion based on its application does not allow a different party to rely upon or claim any protection against prosecution for its gainsharing arrangement even if the facts are similar or even identical," says Marcotte Stamer.

Some of the elements that the OIG requires of those wishing to obtain the commitment not to enforce are defined, Marcotte Stamer says. In 2005, the Deficit Reduction Act renewed interest in gainsharing agreements, and the OIG has agreed not to prosecute organizations that pursue gainsharing arrangements if following criteria are applied: (1) measures that promote...
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Getting Physician Buy-in and Collaboration Has Proved a Similar Challenge for Those
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"On the surface it can look like a gainsharing program might be a quicker and easier path to cost reductions because it's typically limited to one to two service lines or handful of DRGs," says Shields. "But we felt it really wasn't easier due to the administrative and legal complexities, and the organizational hurdles to get the physicians working together."

Advocate Physician Partners entered into a care management and managed care contracting joint venture between the Advocate Health Care System and 3,900 physicians on the medical staff of the Advocate hospitals to create one of the first commercial ACOs and shared savings programs. The system created a clinical integration program in which physicians collaborate to address the quality and cost associated with an entire episode of care, explains Shields.

"If an organization hasn't strategically committed to wanting to be a population health management company, then shared savings isn't going to fit for them; gainsharing may be a better approach," he says.

Physicians work directly with patients to reduce the physical and financial effects of disease and illness by designing treatment plans that include medical intervention and lifestyle changes. The program came about during a contract renewal with BlueCross BlueShield of Illinois in late 2010. With just four months left in the year to establish the program, the payer and Advocate agreed to set provider incentives in the contract based on meeting specific quality, safety, efficiency, and patient satisfaction metrics. Dubbed AdvocateCare, the accountable care and shared savings project started in January 2011.

In the case of Advocate Health Care, population health management was a key strategic goal, so the opportunity to work with BCBS of Illinois aligned with that goal. The organization hired 60 full-time nurses to act as outpatient care managers and work closely with the sickest 3% of the patient population, and it added software to enable costs and outcomes to be monitored and measured against core metrics.

Data is essential for the program to succeed, Shields says, as it allows the team to dig into the numbers by physician, group practice, disease type, etc., and to provide all participants quarterly feedback on progress. Although it tracks nearly 160 metrics, Shields says "a handful are high-priority areas and help maintain the focus for our physicians and our hospital."

In April, Advocate released its 2012 Value Report based on the organization's 2011 results for the first full year of the program, and the cost savings for its shared savings, population health management-based approach are promising.

The Value Report notes Advocate set a generic prescribing target rate of 73% or better for its physicians and it reached 74%, resulting in savings of $12.4 million. Its asthma outcomes initiative resulted in a control rate for its patients of 59%, some 17 percentage points above the national average, saving $8.9 million annually in both direct and indirect medical costs. Additionally, its diabetes care initiative calculated savings of $4.3 million just for making improvements to poor HbA1c levels.

Both gainsharing and shared savings programs can reduce costs by millions of dollars, and while the two approaches differ in their implementation structure, the cost savings goal is consistent and the cornerstone for both rests on physician collaboration.

"We'd been on a clinical integration road for a decade, so we had a lot of relationships with physicians and infrastructure already built," says Shields. "But I think for people who are particularly new to clinical integration, gainsharing can offer a good beginning. Whichever path is chosen, it needs to fit with the larger organizational strategy."

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