The Medicare Care Coordination Improvement Act of 2017 (H.R. 4206, S. 2051)

Section (a): Provides HHS Secretary the same waiver authority for APMs granted to ACOs.

- Provides the Secretary of Health and Human Services (HHS) *identical* waiver authority from fraud and abuse and Stark laws as provided to accountable care organizations (ACOs) in section 1899 of the Social Security Act for practices *developing* or *operating* any bona fide alternative payment models (APMs).
- Applies to entities participating in:
  - Advanced APMs
  - APMs approved by the Physician-Focused Payment Model Technical Advisory Committee.
  - Merit-Based Incentive Payment System (MIPS) APMs, and
  - Any APMs specified by the HHS Secretary.
- Arrangement is in writing, signed by all parties
  - Written reports must be submitted to the HHS Secretary on a semi-annual basis on the progress of the APM.

Section (b): Expands authority of HHS Secretary to provide exceptions to promote care coordination

- Provides HHS broader authority to create exceptions to the Stark Law that do not pose a significant risk of program or patient abuse and that promote care coordination, quality improvement and resource conservation.
- Prohibits the Centers for Medicare & Medicaid Services (CMS) from imposing new regulatory requirements that adversely impact:
  - Physician care coordination in MIPS; or
  - Physician participation in APMs.

Section (c): Eliminates "volume or value" prohibition for practices developing and operating APMs

- Removes the "volume or value" prohibition in the Stark Law so physician practices can develop (i.e. test) and operate APMs without violating the Stark Law.
  - Applies to all types of APMs:
    - Arrangement is in writing, signed by all parties
    - Written reports must be submitted to the HHS Secretary on a semi-annual basis on the progress of the APM
  - Items and services are still subject to fair market value except the HHS Secretary may not take into account "volume or value" of referrals in this specific instance.
  - Ownership provisions are NOT amended.

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Gastroenterologists

Issue: Current Stark Law prohibitions prevent gastroenterologists from entering into shared savings arrangements.

Example 1: Currently, the Stark Law does not protect care coordination among various specialists for colorectal cancer (CRC) screening.

Example 2: The Project Sonar APM would improve patient care and lower the overall cost of care, but the Stark Law prohibits physicians across sites of service from entering into shared savings models designed to treat patients with chronic conditions.

Orthopaedic Surgeons

Issue: Current Stark Law prohibitions inhibit orthopaedic surgery practices from developing shared savings models that reward adherence to clinical protocols that result in better care delivery and more efficient use of rehab services.

Example 1: Integrating rehab services into the independent practice model can serve as a significant component of cost savings.

Issue: Orthopaedic surgery group practices need waivers to manage joint replacement surgeries.

Example 1: Case-by-case waivers are necessary for orthopedic surgery groups to coordinate care effectively with skilled nursing facilities and home health agencies.

Urologists

Issue: Current Stark Law prohibitions have created a barrier to urologists' participation in APMs that conserve resources and promote value-based treatment pathways.

Example 1: Currently, the Stark Law prohibits urologists from operating an APM regarding initial therapy or active surveillance of newly diagnosed patients with organ confined prostate cancer.

Example 2: Without modification of the Stark Law, urologists cannot engage in the development and monitoring of protocols to reduce sepsis rates after prostate biopsy.

Oncologists

Issue: Current Stark Law prohibitions inhibit oncologists from modifying utilization of advanced imaging services.

Example 1: Oncology groups with ownership of advanced imaging are unable to reward physicians for adhering to clinical pathways that allow for more appropriate use of advanced imaging services.

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The Digestive Health Physicians Association (DHPA) is a trade association currently comprised of 77 independent gastroenterology (GI) physician practices across the country with the aim of promoting and preserving accessible, high quality and cost-efficient care in the independent GI medical practice setting.

DHPA's member practices include more than 1,800 gastroenterologists and other physician specialists who provide care for more than 2 million people annually. DHPA member practices employ more than 11,000 employees in their medical groups.

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