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The Impact of the Patient Protection and Affordable Care Act and MedPAC's Medicare Payment Policy Report on Ambulatory Surgery Centers

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In March 2010, the healthcare industry experienced the passage of a massive new health care reform package that will fundamentally alter the delivery of and payment for health care. Indeed, on March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (the "Act"). In addition, on March 1, 2010, the Medicare Payment Advisory Commission (MedPAC) issued a News Release announcing the release of its March 2010 Report to Congress on its Medicare Payment Policy (the "Report").

Simply put, both the Act and the Report will significantly impact the way in which Ambulatory Surgery Centers ("ASC") deliver and receive payment for healthcare services. While the Report is important because it recommends an increase in the payment rates for ASC services in 2010 by 0.6%, and the submission of cost data and quality data to allow for an effective evaluation of the adequacy of ASC payment rates, the impact of the Act will be dramatically much more important.

Specifically, the Act will: 1) establish a value-based purchasing program in Medicare to pay ASCs based on performance and quality measures; 2) create a pro-



ductivity adjustment, beginning in 2011, to be applied to Medicare payment rates for ASC services which will cause a reduction in the annual inflation update by a measure of economy-wide productivity gains; 3) initiate the waiver of co-insurance for certain services, such as screening colonoscopies, in an effort to increase access to preventive services; 4) increase funding for the Health Care Fraud and Abuse Control Fund by \$250 million over 10 years; 5) require that all Medicare and Medicaid program providers and suppliers, including ASCs, establish a compliance program; 6) increase penalties for submitting false claims; and 7) establish new requirements for disclosure of financial relationships between health entities, including physicians, hospitals, pharmacists, and other providers, on the one hand, and manufacturers and distributors

of covered drugs, devices, and medical supplies, on the other hand.

ASCs should benefit from this change in the delivery and payment of healthcare services. Indeed, ASCs should profit from the 32 million previously uninsured Americans who will receive coverage in 2014. In fact, ASCs may become the preferred providers as they offer a cost-effective alternative for insurers who find themselves under increasing pressure to control costs. In addition, physicians may increase their investment in ASCs or their interest in performing services at ASCs to offset steadily declining reimbursement rates so that they can share in the facility fee and/or take advantage of more efficient scheduling. Finally, the Act will bar Medicare and private insurers from charging patients copayments for screening colonoscopies, starting in 2011. That change would directly benefit ASCs that perform colonoscopies as it should increase the demand for this service.

Despite the challenges that will certainly occur during this transition process, ASCs should thrive because of their proven ability to deliver high quality and cost effective care.



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