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NEGOTIATING YOUR GROUP'S STIPEND

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"I'm not being paid as much as the guy who does my job over at Joe's."

If that statement were all that is needed for an employee to get a raise, we would be living in a world of constantly inflating salary demands.

But you know it's not that easy.

So why, then, do radiology groups often rely on nearly the same argument when seeking financial support from a hospital?

It may be true that radiology groups across town (or all over the state, or even all over the country) are paying more. It may also be true, as expressed recently by a senior physician, that "other groups are receiving stipend support, so we should get it, too." But those statements are merely recitations of fact, not arguments as to why the subject hospital should pay your group.

Many radiology groups mistakenly believe that pointing out these discrepancies to hospital administration, even if their physicians' low level of compensation can be demonstrated by a fair market value analysis, is sufficient to convince a hospital to provide financial support. These groups make one of the key errors in stipend negotiations: They confuse the fair market valuation process for a stipend negotiation strategy.

Erroneous thinking

The undue focus on the importance of fair market valuation in real-world negotiation is linked to several factors.

As a mantra, "fair market value" is traced to compliance concerns, because it is an element of compliance with federal and state antikickback, self-referral (e.g., Stark), and other regulations.

From a practice standpoint, not an academic one, it's vital that you understand that there is often nothing "fair" or "market" about fair market value. Similar to the way that tax laws are used for social engineering, the regulatory concept of fair market value is used to enforce behavior among healthcare providers. In other words, there's a built-in, definitional "unfairness" required to meet the regulatory goal.

However, there is no legal requirement that hospitals pay fair market value to ensure coverage. The hospital can always refuse to consider the notion of paying anything at all.

For that reason, arguing to administration that if the hospital enters into negotiations with your group for financial support, and if those negotiations result in the hospital commissioning a fair market valuation study, the study will support the payment of a stipend -- this does not support engaging in the negotiation process to begin with.

Strategic concepts

Even though the concept of fair market value is not an argument in favor of the hospital paying financial support, the strategic work required in preparation for your negotiation strategy must take into account the way that fair market valuation works and the way it's used, because you need to influence its outcome.

It's important to understand that valuation studies generally do not result in static determinations of the fair market value; rather, they result in a range of values tied to attendant levels of risk. In other words, the valuation consultant is protecting himself from liability by not specifically opining to anything fixed. This is a second level of "unfairness" in the concept of fair market valuation.

From the hospital administration's standpoint, fair market valuation studies perform two purposes. The first is to protect the hospital and the administrators themselves from liability. Therefore, many hospitals have a policy of paying below the opined range; for example, 75% of the consultant's opined fair market value at the low risk level. This is a third level of "unfairness."

The second purpose of valuation studies from the hospital perspective is that they can be used as artificial caps in the course of negotiation over the amount of the stipend. Inducing a low valuation opinion, and then further reducing it by the hospital's risk reduction percentage, becomes a tool to justify a purported cap on the amount of stipend support when, in reality, the hospital may be willing to pay more and still be within the range of the consultant's opinion.

What this means to you

Don't focus on fair market valuation arguments to support demands for stipend support. Do take into account the way the fair market valuation process works in tailoring your strategy for the later stages of negotiation -- the negotiation over the amount of support: that's what the fair market value concept is all about.

The proper approach to cause the hospital to agree to pay a stipend begins with the development of a long-term strategy to increase your group's power, moving it from replaceable vendor to valuable partner. Your strategy must demonstrate the high value that your group provides, it must set the stage for a high fair market valuation, and it must support the creation of an experience monopoly: status as the only provider with which your business partners would ever consider engaging. This, of course, involves analyzing every aspect of your practice, including relationships within the group and those between the group and outside parties, for every one of those touch points is an opportunity to exert influence in reaching your goal.

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