The Impact of the PPACA on the Self-Pay Revenue Cycle

By Roger McCollister, Attorney, President & CEO, The Midland Group

The Patient Protection and Affordable Care Act[1] (ACA) has wide-ranging impact on the healthcare industry. Its greatest impact is on the uninsured or self-pay patient population. The following are some important service areas affected by the ACA, all of which directly affect the self-pay portion of the provider's revenue cycle. The Midland Group has researched these areas of operation and has extensive knowledge of each system. Here are four areas of important impact of the ACA on the revenue cycle that might bear further consideration by providers.

- **Payment Options and 501(r).** If the facility is a 501(c)3 non-profit, there are significant impacts from the ACA regarding early payment options. The largest and most profound impact is that Extraordinary Collection Activities (ECA's) are prohibited by Section 501(r)[2] for 120 days after the final bill and is problematic for another 120 days, making it prohibited to move toward hard collections for 120 days and risky for the next 120 days after the final bill. ECA's are "hard" collection activities like selling the account

(recourse or non-recourse), court action, demand letters and phone calls, and more. Violations of these prohibitions could jeopardize non-profit status.

What payment options can a provider offer? Generally speaking that would be anything in the realm of "soft" collections where the account is treated as non-delinquent.

a. Early out offerings and longer term payment options that are not structured like an ECA and any creative payment option that does not look like hard collections are permissible. Early pay offerings where prompt pay is rewarded by a discount to the patient/guarantor would be permitted.

b. Longer term payment options if they do not entail selling the account on recourse or non-recourse along with aggressive penalties and fees for late payment, etc. Because of the insurance exchange options, more patients will have insurance with high co-pays and deductibles. This will create a need for longer payment options.

c. Other soft collection activities can be created such as discounts, medium and extended pay offerings, and even write-offs where appropriate. 501(r) is designed to create a more consumer friendly collection environment for non-delinquent accounts, which is what 501(r) requires to be part of the non-profit provider community.

- **Presumptive Eligibility.** All states are required to offer providers the opportunity to become Presumptive Eligibility (PE) sites. The door is wide open as to which Medicaid (MCD) programs are covered and how the

actual operation is designed. PE would be an enticing opportunity for the low income self-pay as it could create an opportunity to streamline public benefits eligibility processes. How it works is that providers apply for PE site status through state regulations (many states not yet enacted) that set out how, when and for what MCD programs the PE process would be available. A PE determination would be made by a certified site employee (or agent such as a vendor) creating immediate eligibility that must be followed up with a completed application under normal processes.

There are challenges that will give pause when electing to be a PE site and they are as follows:

a. Many states are not allowing retroactive coverage which means that the current hospital stay is not covered unless PE is established at pre-registration.

b. Not all MCD programs are covered by many states which would require an analysis of programs covered weighed against the cost of operation.

c. Follow up applications are difficult and a provider must make some effort to encourage the patient to file a regular application and complete the process.

d. There could be penalties for error and inappropriate PE determinations.

PE site activity is helpful if run properly with oversight for quality control and the state regulations are friendly. Remember, a state agency must "believe" in this process to have it developed so that operationally it works. Otherwise, to the state agency, it is just another federal mandate. Here are some areas where it might work:

a. **Pregnancy and deliveries.** This is a relatively straightforward area for MCD eligibility determination and where there is patient motivation for application follow up to get post-delivery benefits.

b. **Pre-registration or even at registration if PE determination is immediate.** This might soften the potential impact of no retroactivity to the MCD eligibility. Pre-registration for pregnancies could also be done at pre-natal clinics which would be ideal if one of the programs covered were pre-natal services.

c. **An eligibility vendor would have the capacit**y to ensure follow up applications assistance and the expertise to oversee quality control of the PE decision. As a Business Associate (BA) contracted agent of the provider, the eligibility vendor should qualify to administer the PE activity for the provider.

- **Certified Application Counselors.** Certified Application Counselors[3] (CAC) are designed to do the same functions as a public navigator—assist uninsured to sign up for insurance or MCD on the state or federal insurance exchange. The difference is that the CAC is attached to a provider and is not required to serve the public and is more focused on the patient population of the provider. A CAC program operated by a provider or an agent such as a vendor is only helpful for prospective patient activity. Signing up patents on the exchange for private insurance has no retroactive effect and will only serve to cover future provider charges. The benefits to a provider of providing a CAC program are building up a potential patient base of

insured patients and the public relations impact of providing such a service. Here are some challenges that a provider should contemplate:

a. CAC activity must be supervised by a certified organization that is authorized to train, supervise, and certify CAC's. The certifying organization can be the provider or an eligibility vendor that is a certified CAC organization. Obtaining group certification is not a simple process and requires a significant commitment of time and resources. (The Midland Group is a nationally certified CAC organization.)

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b. CAC enrollment assistance should be paired with a provider campaign focused on the community of patients to encourage insurance exchange sign up. The first open enrollment closes March 31, 2014 and re-opens November 15 – February 15, 2015. Sign up outside of open enrollment must relate to a qualifying event such as moving from state to state, change or loss of job, changes in family structure, income , etc.

c. CAC's must present all options available on the insurance exchange and not just those that have contractual relationships with the sponsoring provider. However, it is permissible to point out to the applicant the fact that the provider has contractual relationships with insurance companies listing plans

on the exchange as that information could be helpful if the patient is planning to use a service of the provider in the future.

- **Medicaid Expansion.** Much has been written about this provision of the ACA. It is the only section modified by the US Supreme Court; the remainder of the ACA was sustained.[4] The Court revision was simply to make the MCD expansion optional to the states. The MCD expansion would cover all single adults between 18 and 64 whose income is below 138 percent of the Federal Poverty Level (FPL). The cost to the states is zero for the first three years and then gradually drops to 10 percent state funds and 90 percent federal funds. With other current MCD categories, the cost is shared 40 percent state and 60 percent federal. To compensate, disproportionate share revenue is being phased out. If a state takes the expansion option, there are some real benefits. They are:

  a. The expansion applies to all eligible single adults who, if enrolled, would significantly reduce the self-pay population.

  b. It is estimated that 53% of the mentally ill being treated at community mental health centers in Kansas are uninsured and eligible only under MCD expansion guidelines. With MCD expansion, states such as Kansas would no longer need to require a single adult to obtain SSI to be MCD eligible.[5]

  c. The expansion does not reduce other categories of MCD eligibility; it only adds a new one.

  d. Each state that accepts the expansion creates for itself a huge subsidy from a third party to its healthcare industry, similar to subsidies to farmers, etc.

In summary, the Patient Protection and Affordable Care Act[1] (ACA) has wide-ranging impact on the healthcare industry and the impact will continue to change as states make adjustments to accommodate their unique circumstances. Providers will be challenged with staying current on the regulations and adjusting their processes to accommodate the mandates and must refocus their outreach efforts on patient education of the new choices available.

1 Patient Protection and Affordable Care Act. 42 U.S.C. Section 18001 et seq. (2010)
2 501(r). 26 U.S.C. Section 501(r)
3 Certified Application Counselor. 45 CFR 155.225
4 National Federation of Independent Business et al. vs. Kathleen Sebelius, et al., 132 S. Ct. 2566 (2012)
5 *Brownback says now not time to expand Medicaid*, KHI News Service, Dave Ranney, March 13, 2014

Roger McCollister is highly respected and well known for his work helping low-income people receive legal representation and public benefits. Roger established Kansas Legal Services, a statewide non-profit corporation, dedicated to helping low-income Kansans with legal, mediation and employment training services. In 1989, Roger founded The Midland Group and serves as President and CEO. Roger has received numerous awards including Service to Mankind Award, El Centro De Servicios Para Hispanos, Kansas City, Kansas, in 1981; Washburn University Law School Alumni of the Year in 1986; and the Kansas Bar Association Outstanding Service Award in 2007.

The Midland Group is a company created from a vision of helping disadvantaged people while simultaneously providing a valuable service to the healthcare industry. Midland provides hospital revenue cycle services focused on Self-Pay Solutions® including public benefits eligibility, managed payment plans for patients, third-party billing, and accident/liability lien services.

The Midland Group was founded in 1989 and is owned and controlled by The Independence Charitable Trust (ICT), a 501(c)(3) charitable trust. Each month, Midland donates a portion of their revenue to ICT.

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