Facility fees: the farce everyone pays for

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Medical Economics®

Imagine that you and your family love going to a local chef-owned restaurant. The service is good. The price is reasonable. The staff is friendly and knows your order. You know the chef-owner personally, and have heard that he often donates surplus food to the local food bank.

Then a large restaurant chain buys up the restaurant. The menu looks exactly the same, but it doesn't have prices. You go ahead and order the Caesar salad and hamburger that you always get for $12. After you've eaten, you get your bill. The meal is now $48. When you ask why, you don't get a straight answer.

Finally, after some persistence, you discover that the chain-owned restaurant has layered in a facility fee: a charge that adds no value to your dining experience whatsoever, but that allegedly helps the corporate entity maintain its overhead and give an occasional free meal to the poor—so the owners claim.

Facility fee? The facility looks the same. You find the former owner, who looks a little sheepish, and demoralized. He tells you he wishes he never sold out, but the corporation pressured him and paid him a lot of money. And now the corporate honchos are making him prepare twice as many meals a day as an employed chef. He's burning out. Quality has suffered. He can't buy the fresh market ingredients he wants, but must make do with what the company supplies. What's more, he is contractually forbidden from opening another restaurant within 100 miles. He's stuck.

You start trying out other nearby restaurants to find a new favorite and learn they've all been bought by the same company.

You know where this is going.

Every day, hospitals and health systems are buying independent doctors and turning them into employed physicians. When they do, hospitals tack a facility fee onto the doctor's fee every time he or she performs a procedure. These fees add zero value, yet the law allows hospitals to charge them to "cover overhead." These money-for-nothing fees are one reason hospitals can afford to pay doctors more than doctors can earn on their own, and lure them out of independent practice—a trend that is unhealthy for doctors and for Americans.

Because of these fatuous fees, the same treatment that cost $500 in an independent practice, now costs $1,500 or $3,000 after a hospital buyout. A hospital that employs a cardiologist should not get $4,000 for a heart catheterization when an independent doctor performing the same procedure across the street gets $1,100. A procedure should cost the same regardless of where it's performed. But our law doesn't work that way.

It's the law

Under current federal law, Medicare payments flow differently depending on whether payments go to a hospital outpatient setting (via the Outpatient Prospective Payment System) or to a private physician (through the Physician Fee Schedule). Hospitals get paid more, often several times more, because the system lets them add facility fees.

For example, clinic visits are the most commonly billed service under Medicare. Currently Medicare pays $116 for a visit to a doctor in an outpatient hospital clinic, and only $46 for the same level visit to an independent doctor. That difference adds up.

CMS has long advocated for equal payments, or what the agency calls "site-neutrality," to no avail. The Medicare Payment Advisory Commission has advised year over year that if Medicare stopped paying facility fees our nation could save tens of billions of dollars. This could be a lot more if private insurers followed suit.

Where the facility fees really add up is when they compound. See, hospitals require employed physicians to refer only to other employed doctors, and to order tests only through hospital-owned facilities, regardless of whether those doctors or facilities are the best or most cost effective. Doing otherwise is called "leakage," an offense that sparks an administrative rebuke, and often a pink slip.

So, when a patient with a knee injury unwittingly goes to an employed primary care doctor, he will be referred to a hospital-owned orthopedist, who will order an MRI from a hospital-owned imaging center, then schedule surgery in hospital-owned outpatient center. Facility fees pile on at every step, so a knee surgery that would have cost the patient $5,000 through various independent practices now costs $35,000. When you figure that only one third of practicing physicians today are independent, leaving the majority employed, you see how facility fees cost us all billions of dollars a year. For nothing.

Even if you never go to the doctor, you pay for this through higher premiums, higher deductibles, higher taxes, and higher costs of goods and services.

If CMS knows this, why doesn't the agency follow MedPAC's recommendations and get rid of facility fees? Because MedPAC advises Congress. CMS can't change the law. Getting rid of facility fees would literally require an act of Congress.

And, because the American Hospital Association alone spent $22 million in 2017 lobbying lawmakers on behalf of their bottom lines, and because it's tough for lawmakers to put patients over their own pockets, lawmakers aren't motivated to get rid of these facility fees. (See how much your lawmaker gets from healthcare special interests on OpenSecrets.org.)

A game changer

In late July, however, CMS proposed a policy change to move toward a site-neutral payment system in in 2019. If the move goes through, Americans would save $760 million in 2019 alone.

This would be a huge positive step toward fixing a badly broken system riddled with perverse incentives. *But brace yourself for a fierce fight from hospitals, who aren't going to give up this gravy train easily.*

Meanwhile, facility fees are a farce we all pay for. They need to go away, or at least be made very clear in every state. If Medicare doesn't fix this, and lawmakers won't, that leaves it up to doctors and patients. Doctors must first say no when hospitals bribe or bully them to sell out. Second, they need to educate consumers about choosing independent doctors.

If we expose—or even better—eliminate facility fees, hospitals will stop buying doctors. Independent doctors could practice on a level playing field. Patients could get reasonably priced care. Americans would save tens of billions of dollars a year in healthcare costs. And a burger and salad would be $12 again, with better service.

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