

## Report on Medicare Compliance Volume 29, Number 20. June 01, 2020 With MA, Commercial Payer COVID-19 Changes, Hospitals Face New Payment Deliberations

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By Nina Youngstrom

When hospitals and other providers bill Medicare Advantage (MA) plans and commercial payers for coronavirus tests, they're supposed to be paid 100% of the negotiated rate or the default charge because the Families First Coronavirus Response Act,<sup>[1]</sup> as amended by the Coronavirus Aid, Relief, And Economic Security (CARES) Act,<sup>[2]</sup> prohibits patient cost sharing. But with so many payers and payment arrangements, something may get lost in translation, and hospitals may not realize they weren't paid the full amount and overcharge patients.

"It's a compliance issue that sticks with you even when you make the transition from Medicare to the commercial world," said attorney Jim Boswell, with King & Spalding in Atlanta, Georgia.

In addition to cost sharing, hospitals have to contend with prior authorization and other COVID-19-related policies to ensure they're paid in the months to come by MA and commercial plans and don't lose out in audits later. "When it comes to commercial insurance, it is a payer-by-payer, plan-by-plan, patient-by-patient analysis that can be extremely complicated to implement," Boswell said. There are a "huge number of payer policies" that are updated frequently, but aren't located in provider manuals, and they're affected by whether a patient's insurance is governed by the Employee Retirement Income Security Act (ERISA). Some policies are "sunsetting" at the end of May or in early June, which changes the revenue and compliance calculus considerably, although they could be extended, he said.

"A lot of this is following the bouncing ball as plans revert to what they were doing before and you don't get special leniency because of COVID-19," Boswell said at a webinar sponsored by the law firm May 22.

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