Gainsharing in the Transforming Episode Accountability Model

Background

In the Centers for Medicare & Medicaid Services' (CMS) Transforming Episode Accountability Model (TEAM), hospitals are the only direct recipients of reconciliation payments from CMS. The model continues to pay surgeons at Medicare's standard fee-for-service rates. However, the model does provide a mechanism for hospitals to share savings (or losses) with surgeons. Hospitals may choose to reward participating surgeons by sharing a portion of the reconciliation payment under a formal agreement, called a "gainsharing" agreement. It is important to note that offering such agreements is not required and remains at the hospital's discretion.

Surgeons arguably play the most critical role in joint replacement episode success. Their decisions regarding surgical indications, implant selection, length of stay management and discharge planning have significant influence on costs and quality outcomes. Without gainsharing, surgeons have no direct financial stake in the hospital's performance under TEAM. Gainsharing agreements bridge that gap by aligning hospital and surgeon incentives through mutual financial benefit. This alignment encourages surgeons to actively participate in clinical pathway design, care coordination, and cost-savings measures that improve patient outcomes.

Provisions for Gainsharing Agreements

TEAM's final rule details strict provisions for establishing gainsharing agreements between hospitals (TEAM participants) and surgeons (TEAM collaborators). CMS seeks to ensure that gainsharing payments promote quality care and compliance with fraud and abuse laws. Key requirements and safeguards include:

- **Written agreement in advance:** The hospital and surgeon must enter into a written contract ("sharing agreement") signed by both parties *prior* to treating TEAM patients.
- **Quality and TEAM Activities basis:** Payments must be tied solely to quality of care and the surgeon's contribution to episode activities, not volume or value. Participation in shared savings should be based on predefined quality metrics and care improvement efforts.
- **Derived from actual savings:** Gainsharing payments to surgeons can only come from generating real savings in the model, either earned reconciliation payments or internal episode cost savings. Total gainsharing payments cannot exceed hospital reconciliation payments.
- **No reduction in medically necessary care:** Gainsharing agreements must not induce reductions in medically necessary services or compromise patient choice. CMS explicitly seeks to safeguard patients access to care and prohibit inducements to limit necessary care. Similarly, gainsharing agreements cannot restrict the surgeon's clinical judgment.
- **Compliance and transparency:** Gainsharing agreements must be included in hospital compliance oversight programs that also cover surgeons. Arrangements and payments are subject to CMS monitoring and audit. Transparency is also mandated. Hospitals must publicly disclose TEAM collaborators and surgeons must notify patients of their participation in a gainsharing agreement.

Why Surgeons Should Consider Gainsharing Arrangements

Surgeons stand to gain significant benefits from entering into well-structured gainsharing agreements under TEAM. Aligning surgeon and hospital incentives fosters collaboration towards a shared goal: providing high-quality, cost-effective joint replacement care. Gainsharing compensates surgeons for delivering superior care and managing resources wisely, providing a "quality bonus" in addition to regular fee-for-service payment. Gainsharing agreements are a relatively low-risk value-based care (VBC) entry point as health care increasingly shifts to "pay for performance" reimbursement models. Lessons learned from gainsharing agreements will undoubtedly inform future value-focused model participation. Surgeons have perhaps the single biggest influence on a joint replacement episode's success.

Gainsharing agreements allow surgeons to shape clinical pathways and be the principal stewards of patient care. They also provide leadership opportunities, a seat at the table in decision-making processes, and the ability to strengthen physician-hospital relationships. Surgeon leadership and ownership of gainsharing arrangements foster autonomy and supports physician-led health care. Hospitals are not obligated to offer gainsharing; but it is in the surgeon's best interest to proactively approach their hospital about forming such a relationship.

Establishing a Gainsharing Agreement

Forming a gainsharing agreement under the TEAM model requires close collaboration between surgeons and hospitals. Success depends on open, good faith discussions and buy-in from all participating stakeholders. Open communication and trust are essential.

The first step is to establish a working group or committee comprised of surgeons and hospital leadership. This group will design the program, determine metrics and set guidelines for participation. Gathering data on baseline performance helps identify areas of focus and serves a reference for setting benchmarks. Consultants may be engaged to facilitate structuring the agreement including goals and targets. Involving a legal advisor early in the process is highly recommended to ensure regulatory compliance.

Developing quality metrics and eligibility criteria is a crucial step in developing a gainsharing agreement. Metrics should be reasonably achievable and designed to drive measurable improvements in cost and quality. As the program progresses, it may be necessary to add or remove metrics and recalibrate targets to minimize "ratchet effects."

Gainsharing Agreement Best Practices: Step-by-Step

- **Initiate Discussions and Foster Buy-In:** Surgeons should engage hospital leadership and discuss mutual goals under TEAM. While hospital participation is mandatory, surgeon involvement is dependent on establishing a gainsharing agreement. All parties should support the concept of collaboration and shared savings to ensure success.
- **Form a Working Group:** Select representatives from hospital administration and surgeon practices meet to discuss details and program design. The group collects and reviews current performance metrics and engages legal and compliance departments to ensure compliance.
- **Develop Quality Metrics:** Hospitals and surgeons should develop and agree upon achievable quality metrics and clear eligibility criteria to formalize the agreement. Metrics should be reasonable, fair, and attainable while fostering better outcomes and improved costs. Examples include:
    - **30-day readmission rates**
    - **Length of stay**

    - **Patient-reported outcome measures (PROMS)**
    - **Implant costs**
    - **Discharge to home rates**
- **Set Gainsharing Formula:** Establish rules governing how savings are calculated and shared. This includes determining the total savings pool (percentage of reconciliation payment), performance tiers, and distribution of payments. The formula should be structured to reward participation and performance while remaining compliant with program provisions and regulations.
- **Draft the Agreement Document:** Key components of the gainsharing agreement include identification of parties, purpose and scope, effective date and term, responsibilities of each party, payment methodology, and compliance and legal safeguards. Legal review is strongly recommended with amendments and revisions as necessary. Consultants may be engaged throughout the process to guide development of metrics, targets, and distribution rules.

Potential Pitfalls (and How to Avoid Them)

Carefully designed and implemented gainsharing agreements align surgeon and hospital incentives while fostering improved outcomes and reduced costs. Poorly designed agreements present compliance risks, downside risk (clawback payments from poor performance), and a strained relationship between physicians and hospitals. Metrics should be chosen to maintain or enhance quality, not incentivize physicians to cut corners to achieve savings. At the same time, setting unrealistic or unclear performance targets may negatively impact buy-in and lead to program drop out. Ideally, all eligible surgeons should participate in the agreement to maintain consistency and avoid underperformance. Finally, leveraging existing infrastructure reduces the administrative burden of both TEAM participation and maintaining the gainsharing agreement.