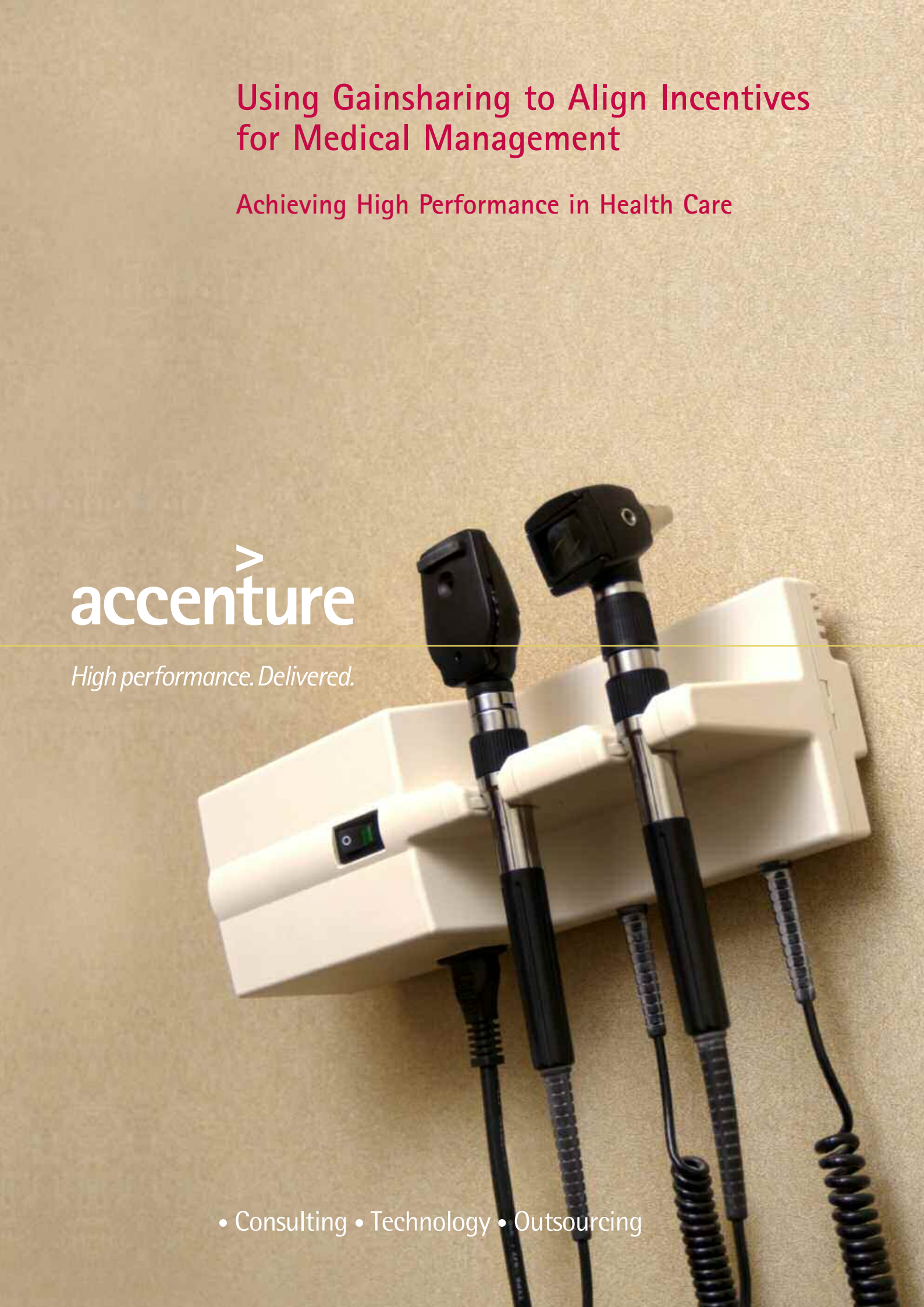
Using Gainsharing to Align Incentives for Medical Management

Achieving High Performance in Health Care



accenture

High performance. Delivered.

• Consulting • Technology • Outsourcing

Introduction

"Gainsharing" has had a checkered past in the health industry. It is broadly defined as an arrangement in which hospitals give physicians a share of the reductions in the cost for patient care that are attributable, in part, to their efforts.

In the past, the Office of Inspector General (OIG), which has regulatory oversight responsibility for gainsharing practices, expressed concern that gainsharing could potentially harm patient care. It issued an advisory opinion that declared all gainsharing arrangements and similar joint ventures between physicians and hospitals illegal. This effectively halted all gainsharing practices until 2001.

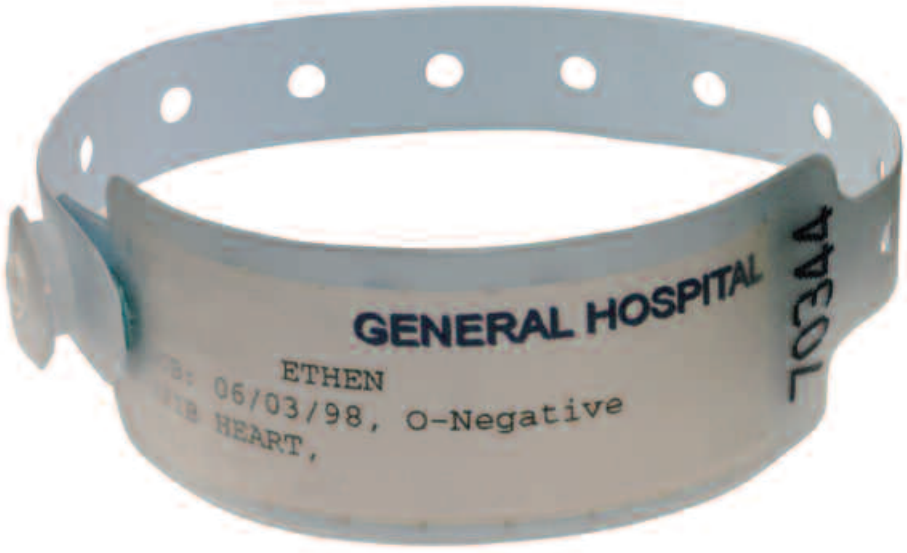
However, health industry leaders are starting to express renewed interest in gainsharing, as the OIG has appeared to reverse its historical opposition. Over the past four years, it has approved six programs with similar attributes and indicated its intention of approving a similar number later this year.

The rulings are still on a case-by-case basis, and the key attributes across all of the programs are very similar and narrowly defined in scope. Moreover, a section of the recently proposed legislation known as the Hospital Fair Competition Act of 2005 would establish gainsharing criteria and make such arrangements legal.

Considering that there appears to be a warming regulatory climate, Accenture's experience, industry knowledge and research leads us to believe that gainsharing can be considered as an effective option for health organizations in three situations:

1. **Proactively—**To gain physician support for cost-reduction opportunities, especially in high-cost service lines that utilize large volumes of physician preference items such as stents, orthopedic implants, other surgical supplies, pharmaceuticals, etc.

2. **Defensively—**To meet a competitive threat from another community provider, a specialty hospital or ambulatory venture (e.g., ambulatory surgery center), where the physicians seek to use their skills and market knowledge to help create additional income for themselves, resulting in loss of quality physicians and the cases associated with them.



Gainsharing can help health organizations on their journey to high performance by creating a win-win-win scenario that benefits patients, physicians and hospitals through lower costs and higher quality.

3. **Transitioning to "pay-for-performance"—**To form a foundation for effective pay-for-performance programs by encouraging physicians to participate in measuring both quality and financial goals.

Gainsharing can help health organizations on their journey to high performance by creating a win-win-win scenario that benefits patients, physicians and hospitals through lower costs and higher quality. We believe that successful gainsharing approaches need to look beyond the costs of care and supplies used. To succeed, gainsharing should address the quality of care through collaborative approaches with clinicians. Increasingly, health providers will be held accountable for the quality of care they deliver. Given the regulatory environment and consumer concerns regarding patient safety, gainsharing arrangements will be subject to a great deal of scrutiny to ensure that they do not compromise quality of care. Providers will need to substantiate their clinical quality in an objective manner, using quantifiable, documented measures. Their ability to do this will require:

- Close collaboration with physicians and other clinicians.
- The ability to influence not only the supplies used, but the clinicians' workflow.
- Access to clinical outcomes and quality performance data by leveraging clinical information systems.

The remainder of this paper explores the objectives and history of gainsharing programs; drivers fueling a demand for gainsharing; critical success factors and guiding principles; and an approach to achieving gainsharing objectives.

The nature of hospital and physician relationships

The ultimate goal of all relationships between hospitals and physicians is to fairly align the risks and rewards borne by each party in caring for their communities. Since the attributes of each community vary, one model is not by default better than another. But for each unique situation, one model's particular merits may make it preferable to others. At one end of the spectrum is the allegiance of independent or volunteer medical staff based on personal relationships. At the other end of the spectrum are hospitals that have, in effect, purchased physician allegiance through the direct employment of their entire medical staff. Between these extremes, there are three types of agreements that balance the advantages at each end of the spectrum. They are:

1. Managed care contracting agreements.
2. Gainsharing agreements.
3. Asset joint venture agreements.

Hospitals can work with physicians to take a number of steps that can achieve substantial savings and improve performance.

The common characteristic of all three is that hospitals and physicians jointly bear the risks and rewards for providing care, also referred to as gainsharing. We believe that hospitals can achieve high performance by effectively designing gainsharing agreements that implement medical management initiatives while placing a strong emphasis on improving quality, improving safety and reducing operating costs.

Gainsharing defined

In a gainsharing agreement, a hospital and a group of physicians collaborate to actively manage variable costs of major procedures without decreasing the quality of care being provided. Any savings achieved through this collaboration are then shared between the hospital and the physicians. Gainsharing agreements are most effective when all of the following conditions are present:

- Medical staff are not employed by the hospital.
- A large volume of procedures are reimbursed under a global fee.
- Procedures have a considerable variable expense based on the quantity and type of supplies used, drugs prescribed and tests performed.

Hospitals can work with physicians to take a number of steps that can achieve substantial savings and improve performance. These include:

- **Standardizing or replacing the most common supplies.** Providers can reduce costs through volume purchasing agreements.
- **Reducing excessive use of supplies and services.** For example, they can avoid opening or ordering selected supplies in advance, and instead use them as needed.
- **Substituting comparable or generic drugs.** Significant savings can be achieved when physicians alter their prescribing practices according to an acceptable formulary.
- **Decreasing the number of tests performed.** By using evidence-based medicine and validated outcomes research, clinicians can achieve higher quality of care at lower costs.

Although agreements of this nature are most commonly seen with cardiothoracic and orthopedic surgeons, they can also be applied to ambulatory surgery centers, imaging and diagnostic facilities, and other specialty groups that perform a large volume of procedures with a significant variable cost structure. While potential savings depend on case volume and the success of previously implemented cost reduction measures, it's not uncommon for mid-sized hospitals to see annual savings opportunities in excess of $1 million.

History of gainsharing and joint ventures in health care

Cost containment became one of the most pressing issues in health care as managed care plans swept the nation beginning in the 1980s. By the mid-1990s, many of the "easy" expense reductions were achieved and hospital executives realized that to achieve further savings, they needed the active participation of their medical staff members. This cooperation was—and still is—necessary because much of the hospitals' remaining variable costs are now driven by the practices of their medical staff. Gainsharing became known in the late 1990s as hospitals responded to the demand for cost reductions to make health care more affordable to the communities they served.

During their inception, gainsharing programs were generally supported by the governmental agencies under whose guidance they fell: formerly the Health Care Financing Administration, now known as the Centers for Medicare and Medicaid Services (CMS).

At that time, CMS fell under the purview of two other agencies: the Department of Health & Human Services (HHS) and the Office of Inspector General (OIG). The OIG had responsibility for the health and welfare of the beneficiaries of the HHS programs, and was given regulatory oversight responsibilities for gainsharing agreements. The OIG believed that certain types of gainsharing agreements could potentially harm patient care.

In July 1999, OIG released a Special Advisory Bulletin declaring that joint ventures between a hospital and physicians were illegal under all circumstances. In that bulletin, the OIG stated the following:

"...that the Civil Monetary Penalty statute (42 U.S.C. 1320a-7a(b)(1)) prohibits a hospital from making a payment, directly or indirectly, to induce a physician to reduce or limit services to Medicare or Medicaid beneficiaries under the physician's direct care... In short, any hospital incentive plan which encourages physicians through payments to reduce or limit clinical services directly or indirectly was in violation of the statute."[1]

The 1999 ruling effectively eliminated all gainsharing agreements until 2001.

In 2001, the OIG released an advisory opinion on a proposed agreement between an acute care hospital and cardiac surgeons' group, where the OIG acknowledged that, "Properly structured, cost sharing arrangements can serve legitimate business and medical purposes. Specifically, properly structured arrangements may increase efficiency and reduce waste, thereby potentially increasing a hospital's profitability."[1] While concluding that the agreement would technically violate section 1128A(b)(1)-(2) of the Social Security Act and the anti-kickback statute

(section 1128B(b)), the OIG also stated that it would not seek sanctions against the requestors of the joint venture because "...the safeguards provide sufficient protections against patient and program abuse."[1]

In every advisory opinion since 2001, the OIG has reiterated its warning that gainsharing agreements could still:

1. Limit necessary patient care.
2. Result in "cherry picking" healthy patients and steering sicker patients to other hospitals.
3. Be a form of payments in exchange for referrals.
4. Result in unfair competition among hospitals offering cost savings to foster physician loyalty and increased referrals.[1]

Turning the tide: recent OIG advisories

Recently, the OIG has issued six gainsharing advisories with a promise of up to seven more to follow. All six opinions were very similar to the landmark 2001 advisory opinion and all received a favorable ruling from the OIG.

Similar to the ruling in 2001, the new rulings involve acute care hospitals and cardiac procedures. In all six cases, the hospitals proposed to share cost savings with physician providers that were directly attributable to changes in laboratory/operating room practices. Specific safeguards were incorporated into the agreements to ensure protection against patient and program abuse.

Additionally, a section of the recently proposed legislation known as the Hospital Fair Competition Act of 2005 would allow gainsharing between hospitals and physicians, and order an examination or recalculation of diagnosis-related group (DRG) weights. HHS would establish gainsharing criteria allowing hospitals to "align incentives and benefit from hospital cost-containment measures, as long as financial incentives affecting physician referrals are minimized and such arrangements do not compromise quality of care." The changes became effective June 8, 2005.

While in aggregate, these rulings can be viewed as a warming environment to gainsharing, the government remains concerned that gainsharing arrangements could compromise the quality of patient care. Hence, health providers wishing to initiate gainsharing programs should take steps to ensure sanctions will not be imposed.

The approved plans have common elements that are helpful in determining how to construct future gainsharing agreements. They include:

- **Transparency**, allowing for public scrutiny and individual physician accountability.
- **Credible medical support** that the recommendations would not affect patient care.
- **Payments based on all surgeries**, regardless of insurance coverage and a ceiling that limits the effect on federally funded programs.
- **Payments based on actual costs**, calculated from the hospitals' actual out-of-pocket acquisition, not an accounting convention.
- **Financial thresholds** established based on objective historical clinical measures that reduce incentives to underutilize resources by capping savings opportunities to physician groups.
- **Standardization of products** so as to not limit the range of cardiac devices that are available to the physicians.
- **Written disclosure** of the arrangement provided to patients for their review prior to the procedure being performed.
- **Short-term duration**, to reasonably limit sharing of financial benefits (one year).
- **Controlled distribution to physicians** of profits on a per capita basis, thus reducing an individual's incentive to push cost savings too far.

Current snapshot: market trends surrounding gainsharing

At Accenture, our experience leads us to believe that major market trends are expected to drive demand for gainsharing agreements. Specifically, cost pressures in established business functions are significant and will likely continue. There is pressure to increase the pace of information technology investments, requiring higher operating margins. The rise of the consumer movement in health care and health savings accounts are adding to the pressure for lower care costs and improved accountability for quality. Additionally, the emergence of pay-for-performance programs in which payers and employers reward providers for documented performance signals that the market is ready for new approaches that affect quality and cost.

Cumulatively, these trends will require hospitals to reduce non-patient-care related inefficiencies while improving, or at least maintaining, the quality and safety of the services provided. This is evidenced in Hospital Corporation of America's (HCA) current petition to the OIG for a gainsharing agreement with its orthopedic surgeons. Through this agreement, HCA hopes to significantly reduce the procurement costs of orthopedic implant devices.[2] Without a gainsharing agreement, health care industry analysts are speculating that HCA will not succeed in its cost reduction effort because of individual physician preferences for particular implants.[2]

Optimally, the beneficiaries of gainsharing agreements will be not only the hospitals who can increase their profit margins by reducing their costs and the physician groups who can share in the cost savings. Beneficiaries will also include the communities served by the hospitals and physicians, as lower costs will reduce pressure on future health care price increases.

Critical success factors for gainsharing

To succeed, gainsharing programs need to address the quality of care through collaborative approaches with clinicians. The objective is to link and align a significant portion of earning potential to specific clinical quality and efficiency goals, while maintaining or improving patient service.

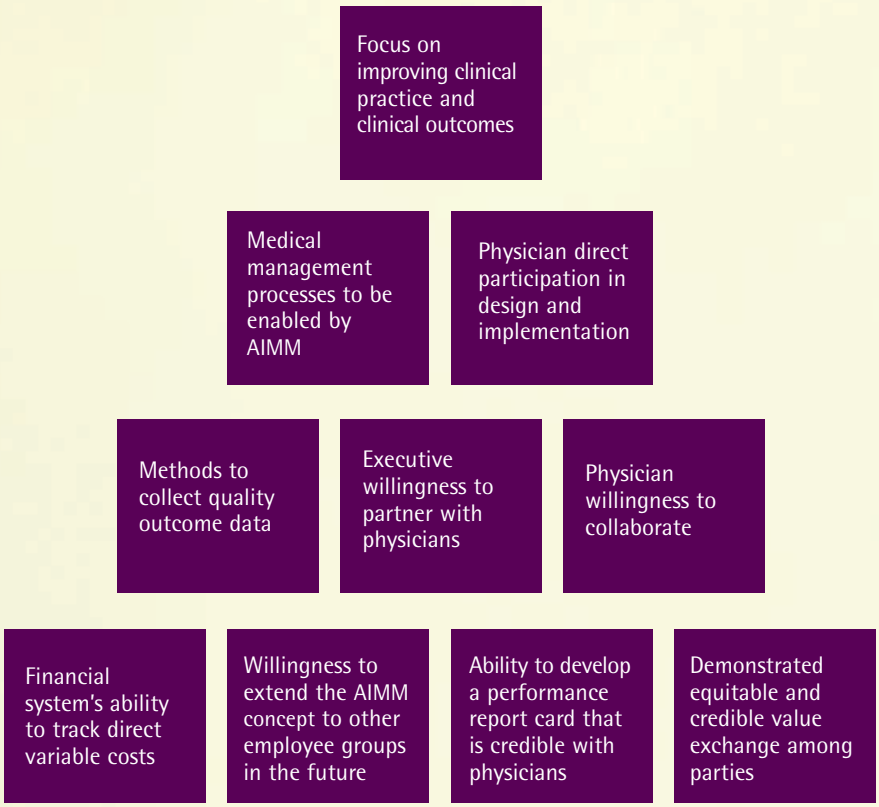
Through gainsharing, hospital executives can develop an incentive system that aligns physician interests to achieve specific clinical quality and efficiency goals for mutual success. The most effective gainsharing programs will focus on services that are procedure-driven and concentrate on clinical specialties with opportunities for cost savings. They will involve primary care physicians to address care across the continuum of medical management.

We believe gainsharing programs need to follow several guiding principals:

1. Bringing physicians into the equation is necessary to create a high-performance organization.
2. Clinical process transformation alone will not create sustained change without all aspects of physician-controlled care delivery processes incorporated.
3. New systems and technology can produce greater performance improvements when they address the needs and motivation of the providers of care.
4. A focus on physician leadership can support organizational change efforts and sustained performance.

A well-planned and executed gainsharing program should be a long-term effort, executed through a series of discrete short-term programs. It should have an evolving strategy for all medical staff members, whether they are clinical leaders, loyalists or all physicians. It needs to set reasonable targets (due to the work effort required and the difficulty of improving outcomes, not all savings or benefits will be realized in the first year of the contract). It must measure clinical quality, and can form the basis for participation in the rollout of clinical systems. Hospital leaders should consider using gainsharing as a transition to the development of pay-for-performance programs to achieve high performance.

Infrastructure building blocks for aligning incentives for medical management (AIMM) success



Effective gainsharing arrangements will need to address all major business processes in a holistic manner, including supply chain, finance, clinical transformation, business transformation, change management, and systems integration. In designing gainsharing programs, hospital executives will need to incorporate the following elements:

- **Support** and sponsorship for changing physician behavior.
- **Compliance** with regulatory requirements.
- **Innovative plan design** that can be communicated, understood and administered.
- **Financial modeling** to assess the impact and potential compensation opportunity and to prove the plan concept according to regulatory requirements and historical performance of the organization.
- **Effective communications strategy** to ensure the plan is communicated to the specialty physician community, properly sponsored by physicians and the leadership team.
- **Establishment of benchmarks** and measures of clinical quality and efficiency.
- **An infrastructure** to support the data tracking requirements of the medical management structure.

We believe that gainsharing, and ultimately high performance, can be accomplished by aligning hospital and physician incentives for medical management.

An approach to achieving gainsharing objectives

Effective gainsharing programs require direct involvement by executive leaders and physician sponsors throughout the process. Hospital leaders can achieve a favorable rapport with the medical staff by providing physician stakeholders with the opportunity to participate in the value created through their efforts. This can promote higher levels of operational efficiency and quality service.

We believe that gainsharing, and ultimately high performance, can be accomplished by aligning hospital and physician incentives for medical management. This can be accomplished by leveraging the expertise of a cross-functional team including physicians and other clinicians, supply chain experts, pharmacists, clinical information technologists, legal advisors and financial managers.

Through our extensive work with health care organizations, we have seen providers develop results-oriented gainsharing arrangements through a phased approach:

1. An **assessment** can identify potential service line cost savings and other issues. It should evaluate the potential benefit to the community as well as to the hospital and physicians in the context of mission and values, unique population needs, venues of care, payer demands and external competition.

2. An **architecture plan** identifies the cost/benefit potential, finance and information systems capabilities, and the potential for successful implementation based on current physician relations, medical management initiatives already undertaken, physician leadership and executive team sponsorship.

3. The **construction phase** develops policies to address specifics of the gainsharing arrangement such as eligibility; performance period; plan funding levels; performance thresholds and targets; minimum/maximum or capped award levels; bond counsel requirements for safe harbor compliance (Rev. Proc. 97-13); deferral of payments; payout timing and method, death, disability and retirement; legal compliance; and plan terms.

4. The **implementation** should make use of change management interventions to develop a communications strategy, governance structure, and approach for performance management and monitoring.

One of the most important requirements for successful implementation of gainsharing arrangements is physician involvement throughout the development process. This should include key physician leaders and specialists representing the continuum of medical management (e.g., cardiology, cardiovascular surgery and anesthesiology).

Conclusion

At Accenture, our experience leads us to believe that gainsharing arrangements offer the potential for improving performance through positive and significant long-term impact on hospital profitability. Recent legislative rulings indicate that gainsharing can become a trend that could help hospitals manage supply costs and promote discussion among physicians about product use, costs and quality.

But concerns regarding the impact of these programs on quality of care remain. Providers wishing to engage in gainsharing arrangements will be held accountable for the quality of care they deliver. Hospitals will need to influence not only the supplies used, but also clinicians' workflow. And they will need the ability to substantiate their outcomes with documented measures from clinical information systems.

We believe that the key to the effective design and implementation of gainsharing arrangements is a collaborative approach between hospital leaders, physicians and other clinicians. This will be necessary to link the potential for financial savings to specific clinical quality and efficiency goals, while maintaining or improving patient service and ultimately achieving high performance.

References

1. Thornton, D. McCarty. "OIG Advisory Opinion No. 01-1." Jan. 18, 2001. N.p.: Chief Counsel to the Inspector General, n.d. 1-16.

2. Martinelli, Katherine A. "Medical Devices & Technology—Gainsharing Agreements—A Manageable Risk." Feb. 22, 2005.

Disclaimer

For more information on achieving high performance, contact Health & Life Sciences:

Lewis Redd
+1 678 657 5478
lewis.redd@accenture.com

Jim Pizzo
+1 312 693 4564
james.j.pizzo@accenture.com

Sally Boyer
+1 302 830 6057
sally.e.boyer@accenture.com

About Accenture's Health & Life Sciences Group

Accenture's Health & Life Sciences professionals deliver innovation and insight to both the private and public sectors of the marketplace, which includes integrated health care providers, health insurers, managed care organizations, public health organizations and pharmaceutical, biotechnology and medical products companies. With more than 5,000 professionals dedicated to serving the global Health & Life Sciences industry, Accenture is committed to working with clients across the industry to help them achieve and sustain high performance. We have worked with companies of all sizes, including 21 of 24 health care and pharmaceutical companies in the FORTUNE® Global 500.

About Accenture

Accenture is a global management consulting, technology services and outsourcing company. Committed to delivering innovation, Accenture collaborates with its clients to help them become high-performance businesses and governments. With deep industry and business process expertise, broad global resources and a proven track record, Accenture can mobilize the right people, skills and technologies to help clients improve their performance. With more than 115,000 people in 48 countries, the company generated net revenues of US$13.67 billion for the fiscal year ended August 31, 2004. Its home page is www.accenture.com.

12456737