

## Final Rule Could Compromise Value-Based Purchasing Program

Value-based purchasing refers to financial payment incentives to reward healthcare providers for realizing high quality of care. Several value-based purchasing programs were established under the Patient Protection and Affordable Care Act (ACA), with the Hospital Value-Based Purchasing (VBP) Program representing perhaps the most extensive program.<sup>1</sup> The VBP program rewards hospitals with financial incentives related to high quality outcomes for Medicare inpatient acute care patients.<sup>2</sup> The legislation assigns the Centers for Medicare and Medicaid Services (CMS) the task of establishing benchmarks to measure quality outcomes and is designed to work in conjunction with the Inpatient Quality Reporting (IQR) Program.<sup>3</sup> CMS's final rule, published May 6, 2011, creates tension between the VBP and IQR programs regarding the timeline of accountability, leading to concerns within the medical community.<sup>4</sup>

To determine incentive payments under the VBP program, hospitals are provided a score based on its performance data compared to other hospitals. Performance measures are subject to restrictions, including that all measures must first be included in the IQR program, created within the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with additional measures added through various CMS final rules and certain measures displayed on the CMS "Hospital Compare" website ([www.hospitalcompare.hhs.gov](http://www.hospitalcompare.hhs.gov)).<sup>5</sup> Scores are also affected by how hospitals performance has improved over time.<sup>6</sup> To allow for time comparisons and accurate benchmarking, an IQR performance measure may not be selected by CMS for the VBP program unless the data has been displayed on CMS' "Hospital Compare" for at least a year prior to a performance period.<sup>7</sup> Despite these restrictions, on May 6, 2011, CMS released a final rule adding measures to both the VBP program and the IQR program simultaneously.<sup>8</sup>

In response to the stipulations listed in CMS's Final Rule, the American Hospital Association (AHA), which represents over 5,000 hospitals in the U.S., stated that the Final Rule was inconsistent with the specifications outlined in the ACA.<sup>9</sup> Additionally, the AHA claimed that the Final Rule may "unfairly and adversely impact" hospitals that would have otherwise benefited from the VBP program.<sup>10</sup> The AHA criticized CMS that the Final

Rule may weaken the very intent of the VBP program; that simultaneous inclusion of measurements in both the IQR and VBP programs could cause compliance issues for hospitals, potentially ending the VBP program as a whole.<sup>11</sup>

The VBP program is set to begin applying to Medicare inpatient discharges occurring on or after October 1, 2012, with payments being issued in FY 2013, using several performance measures. Some of the key measures include: Medicare spending per beneficiary, which has a performance period beginning May 15, 2012; Hospital-acquired Conditions (HAC), which has a performance period beginning March 3, 2012; and, AHRQ Composite Measures, which has a performance period beginning March 3, 2012.<sup>12</sup> Though CMS claims to have included the necessary data for each measure on the *Hospital Compare* website a year in advance, AHA criticizes the data provided as insufficient or failing to meet statutory requirements.<sup>13</sup>

Time allowances give hospitals an opportunity to examine internal efficiencies and increase the probability of achieving designated benchmarks and quality improvement initiatives. Without such considerations, meeting performance measures could become more difficult, causing financial incentives to be an insufficient motivator for hospital to improve quality.<sup>14</sup> In an attempt to reconcile inconsistencies between the programs, the AHA has asked that CMS delay the implementation of the VBP program until 2014.<sup>15</sup>

<sup>1</sup> "Patient Protection and Affordable Care Act" Public Law 111-148, Section 3001, 124 STAT 353 (March 23, 2010).

<sup>2</sup> "Administration Implements Affordable Care Act Provision to Improve Care, Lower Costs" By U.S. Department of Health & Human Services, April 29, 2011, <http://www.hhs.gov/news/press/2011pres/04/20110429a.html> (Accessed 07/28/11).

<sup>3</sup> "CMS Releases Value-Based Purchasing Incentive Plan" By Cheryl Clark, Health Leaders Media, January 11, 2011, <http://www.healthleadersmedia.com/print/HEP-261211/CMS-Releases-ValueBased-Purchasing-Incentive-Plan> (Accessed 07/28/11); "Medicare Program; Hospital Inpatient Value-Based Purchasing Program" Federal Registrar, Vol. 76, No. 88, May 6, 2011, p. 26490.

<sup>4</sup> "Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program" By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at

- 5 <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).  
42 U.S.C. 1395ww(o)(2)(C)(i) (08/12/11); Medicare Prescription Drug, Improvement, and Modernization Act of 2003, § 501(b), Pub. L. No. 108-173 (2003); “Hospital Value-Based Purchasing is Here – Performance Periods Commenced July 1, 2011” By Patricia H Wirth, American Bar Association Health Law Section, Vol. 7, No. 12, August 2011; “Hospital Inpatient Quality Reporting Program” Centers for Medicare and Medicaid Services, August, 25, 2011, [https://www.cms.gov/HospitalQualityInits/08\\_HospitalRHQDA/PU.asp](https://www.cms.gov/HospitalQualityInits/08_HospitalRHQDA/PU.asp) (Accessed 9/20/2011).
- 6 “Administration Implements New Health Reform Provision to Improve Care Quality, Lower Costs” U.S. Department of Health & Human Services, April 29, 2011, <http://www.healthcare.gov/news/factsheets/valuebasedpurchasing04292011a.html> (Accessed 07/28/11).
- 7 42 U.S.C. 1395ww(o)(2)(C)(i) (08/12/11).
- 8 “Medicare Program; Hospital Inpatient Value-Based Purchasing Program” Federal Registrar, Vol. 76, No. 88, May 6, 2011, p. 26490.
- 9 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).
- 10 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).
- 11 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).
- 12 “Medicare Program; Hospital Inpatient Value-Based Purchasing Program” Federal Registrar, Vol. 76, No. 88, May 6, 2011, p. 26490, 95.
- 13 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).
- 14 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11).
- 15 “Letter from the AHA to CMS regarding the Hospital Value-Based Purchasing Program” By Rick Pollack, Executive Vice President, American Hospital Association, To Donald M. Berwick, Administrator, Centers for Medicare & Medicaid Services, August 29, 2011 Accessed at <http://www.aha.org/advocacy-issues/letter/2011/110829-cl-1525-p-vbp.pdf> (Accessed 09/09/11), p.8.



(800) FYI - VALU

Providing Solutions  
in the Era of  
Healthcare Reform

Founded in 1993, HCC is a  
nationally recognized healthcare  
economic financial consulting firm

- [HCC Home](#)
- [Firm Profile](#)
- [HCC Services](#)
- [HCC Experts](#)
- [Clients Projects](#)
- [HCC News](#)
- [Upcoming Events](#)
- [Contact Us](#)
- [Email Us](#)

**HEALTH CAPITAL CONSULTANTS (HCC)** is an established, nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, Missouri, with regional personnel nationwide. Founded in 1993, HCC has served clients in over 45 states, in providing services including: valuation in all healthcare sectors; financial analysis, including the development of forecasts, budgets and income distribution plans; healthcare provider related intermediary services, including integration, affiliation, acquisition and divestiture; Certificate of Need (CON) and regulatory consulting; litigation support and expert witness services; and, industry research services for healthcare providers and their advisors. HCC's accredited professionals are supported by an experienced research and library support staff to maintain a thorough and extensive knowledge of the healthcare reimbursement, regulatory, technological and competitive environment.



**Robert James Cimasi**, MHA, ASA, FRICS, MCBA, AVA, CM&AA, serves as President of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

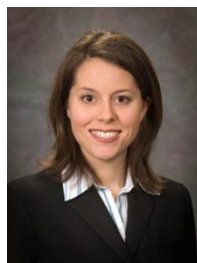
Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books], *“An Exciting Insight into the Healthcare Industry and Medical Practice Valuation”* [2002 – AICPA], and *“A Guide to Consulting Services for Emerging Healthcare Organizations”* [1999 John Wiley and Sons].

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows.



**Todd A. Zigrang**, MBA, MHA, ASA, FACHE, is the Senior Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia, and is a Fellow of the American College of Healthcare Executives. He has co-authored *“Research and Financial Benchmarking in the Healthcare Industry”* (STP Financial Management) and *“Healthcare Industry Research and its Application in Financial Consulting”* (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser’s Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



**Anne P. Sharamitaro**, Esq., is the Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro is a member of the Missouri Bar and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as an editor for the Journal of Health Law, published by the American Health Lawyers Association. She has presented healthcare industry related research papers before Physician Hospitals of America and the National Association of Certified Valuation Analysts and co-authored chapters in *“Healthcare Organizations: Financial Management Strategies,”* published in 2008.