Current Challenges Facing Surgeons in the Age of the ACA

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As previously disclosed, these are the companies with which I have a financial or other relationship(s):

<table>
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<tr>
<th>Company Name(s)</th>
<th>Nature of Relationship(s)</th>
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<tr>
<td>Gore</td>
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A Laundry List of Grievances

• Non-coverage of bariatric surgery
  – Commercial policies
  – Managed Care
  – State Medicaid
  – State Employees
Commercial Payers

Special Coverages Provided
Among employers with 500+ employees

- 78% Autism (Diagnosis)
- 58% Bariatric Surgery
- 26% Infertility (IVF)
- 17% Massage Therapy
- 8% Gender Reassignment

National Coverage of Bariatric Surgery

State Employee Coverage

State Mandates: MD, NH, CA, IN Group Health Plans (HMOs only)

- Coverage Policy in Place
- No Coverage Policy in Place
- Coverage Pilot in Process

Partial Coverage: WI (<20% of population)

Current as of 7-7-16 Coverage may have changed since this printing.
National Coverage of Bariatric Surgery

Essential Health Benefits Benchmarks

CO: Coverage begins in 2017

Source: Center for Consumer Information and Insurance, Aug 2014.

Current as of 7-7-2016; Coverage may have changed since this printing. 048980-160310
Medicaid Coverage for Obesity: Bariatric Surgery

Bariatric Surgery - 48 states and the District of Columbia cover bariatric surgery. Of these states, 36 require prior authorization and 37 require criteria other than BMI alone to determine eligibility. Two states (MT and MS) explicitly exclude bariatric surgery.

A Laundry List of Grievances

• Non-coverage of bariatric surgery
• Restrictive co-insurance and co-payment
In Most Instances, Silver Plan Enrollees Will Face Close to $5,000 in Out-of-Pocket Costs for Bariatric Surgery

**AVERAGE OF COPAYMENTS AND COINSURANCE BY METAL LEVEL AND STATE, 2015**

<table>
<thead>
<tr>
<th></th>
<th>Oklahoma Average Copayment</th>
<th>Oklahoma Average Coinsurance</th>
<th>Oregon Average Copayment</th>
<th>Virginia Average Copayment</th>
<th>Virginia Average Coinsurance</th>
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<tbody>
<tr>
<td>Bronze</td>
<td>$1,500</td>
<td>42%</td>
<td>$6,600</td>
<td>$500</td>
<td>24%</td>
</tr>
<tr>
<td>Silver</td>
<td>$950</td>
<td>29%</td>
<td>$5,000</td>
<td>N/A**</td>
<td>27%</td>
</tr>
<tr>
<td>Gold</td>
<td>$750</td>
<td>24%</td>
<td>$3,000</td>
<td>$488</td>
<td>20%</td>
</tr>
<tr>
<td>Platinum</td>
<td>N/A**</td>
<td>N/A**</td>
<td>N/A**</td>
<td>$225</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total Number of Plans:</strong></td>
<td>24</td>
<td>44</td>
<td>38</td>
<td>11</td>
<td>29</td>
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**Estimated Patient Cost for Bariatric Surgery in a Silver Plan**

- **$950**
- **($17,100 x 29%)**
- **$4,959**
- **$5,000**
- **N/A**
- **($17,800 x 27%)**
- **$4,806**
A Laundry List of Grievances

- Non-coverage of bariatric surgery
- Restrictive co-insurance and co-payment
- Insurance mandated preoperative medical weight management programs (WMP)
ASMBS Consensus Statement

ASMBS Guidelines/Statements

ASMBS updated position statement on insurance mandated preoperative weight loss requirements

Julie J. Kim, M.D., F.A.C.S., F.A.S.M.B.S.\textsuperscript{a,}\textsuperscript{*}, Ann M. Rogers, M.D.\textsuperscript{b}, Naveen Ballem, M.D.\textsuperscript{c}, Bruce Schirmer, M.D.\textsuperscript{d}, on behalf of the American Society for Metabolic and Bariatric Surgery Clinical Issues Committee

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\textsuperscript{b}Department of Surgery, Penn State University, Hershey, Pennsylvania
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Take home points for Insurance WMP

• There is no randomized controlled trial, large prospective study, or meta-analysis that supports the use of insurance mandated preoperative weight loss

• This practice is discriminatory, arbitrary, capricious, and unnecessary

• Delays life-saving treatment, contributes to patient attrition, and is unethical

• This practice should be universally abandoned
Mandated WMP resulted in significant surgical delay.

This delay resulted in no significant difference in:
- Operative duration.
- Post-op length of stay
- Re-admission rates
- Re-operation rates
- Follow up compliance
- % excess weight loss

Participation in an insurance-mandated WMP is not associated with improved post-operative outcomes.
A Laundry List of Grievances

- Non-coverage of bariatric surgery
- Restrictive co-insurance and co-payment
- Insurance mandated preoperative medical weight management
- Stigma of obesity and inherent bias of policy-makers
Discrimination

• Concept of **disparate impact**
  
  – Obesity is more **economically** detrimental to women than men
    • Lower paying jobs
    • Fewer promotions
    • More physically demanding jobs
Disparate Impact

- Failure to cover obesity treatment is more detrimental to women
  - Civil Rights Act of 1964, Title VII
    - Prohibits discrimination on the basis of race, color, religion, sex, or national origin

- No obesity treatment = Discrimination
Obesity as a Disability

• Americans with Disability Act (ADA)
  – Amendment in 2008
  – Physical condition that impairs a “major life activity”
    • Sleeping, walking, bending over, breathing

— Several legal rulings have recognized obesity as a protected disability
  • Protected from employer discrimination
Inequality of Healthcare Exists within the ACA

Obesity treatment coverage should be equitable for all Americans, including citizens who are beneficiaries covered through State’s Health Insurance Exchange.
FACTS:

• Coverage for bariatric surgery is a disparate patchwork based on weight bias, clinical short-sightedness, and poor policy

• Bariatric surgery is associated with the best chance for comorbidity remission and quality of life improvement

• The only fair thing to do is advocate for universal access to bariatric surgical care