WEBINAR

TOP TAKEAWAYS

VALUATION CONSIDERATIONS IN TELEHEALTH TRANSACTIONS

Against the backdrop of COVID-19, telehealth partnerships and transactions are taking center stage in today's dynamic market. These deals present unique valuation issues, however, and they are subject to a complex array of state and federal fraud and abuse laws and corporate practice of medicine prohibitions. In this webinar, Shane Goss and Elizabeth Kwan of Huron Consulting Group joined McDermott lawyers Lisa Mazur and Patrick Zanayed to analyze telehealth deal structures and the role of valuation firms, and to review available market comparability resources to guide the valuation outcomes.

1. Telehealth cuts across a wide variety of care delivery settings and now more than ever is being performed in the patient's home, thanks to expansion in eligible originating sites and improvements in reimbursement. Telehealth care delivery models largely fall within one of three buckets: clinician to clinician (second opinion programs, eICU, eED, virtual conference), provider to patient (remote patient monitoring, chronic care management, virtual specialty care and primary care models), and consumer-driven (direct to consumer telehealth platforms, mobile apps).

2. Emerging virtual care models create an enhanced need for thoughtful valuations that take into account the relevant legal and regulatory considerations. One of the main structuring considerations when establishing a virtual care model is compliance with both state corporate practice of licensed professions laws, which necessitate the use of an affiliated practice model, and fraud and abuse laws. Negotiating a management fee for such an arrangement at fair market value is a critical component of establishing an arm's-length transaction. Additional important items to consider include licensure, particularly the use of mid-level practitioners that have supervision requirements, and reimbursement matters.

3. There are multiple methods for valuation of a telehealth arrangement. In the income approach to valuation, value is derived by discounting future cash flows to present value at an appropriate rate of return. In the market approach, value is derived by analysis of comparable transactions or contractual relationships. And in the cost approach, value is derived by estimating the costs that would be incurred in replicating a comparable asset or service with the same level of utility.

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Two of the most common telehealth arrangements in today's market are professional services arrangements and management services arrangements. When evaluating professional services arrangements, common valuation issues include lack of telemedicine-specific data, difficulty obtaining actual cost data, accounting for low utilization when coverage is needed, and understanding any differences in overhead services depending on where services are being rendered. For management services arrangements, common valuation issues include varying state laws, which often require multiple affiliated professional corporations; lack of telehealth-specific market data; and reliance on cost estimates for start-up entities.

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