

Individual Ownership of CORFs: The New Investment Trend

By

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In these volatile financial times, the trend toward individual ownership in the field of health care is hardly surprising. With a reliable payor in the federal government under the Medicare program, medical facilities provide a degree of certainty that is unavailable in traditional investment venues. Thus, physicians have found it increasingly worthwhile to become owners of medical facilities, such as physician-owned specialty hospitals.¹ Medical facility investment, of course, is not a “get rich quick” scheme. All medical facility owners must comply scrupulously with federal and state laws and regulations. Nevertheless, even entrepreneurs with non-medical backgrounds are finding investment in medical facilities profitable. For these entrepreneurs the health care investment of choice has been the comprehensive outpatient rehabilitation facility (CORF).

CORFs

A CORF is a provider of outpatient rehabilitation services that Medicare certifies and pays on a fee schedule basis. The CORF program was established by Congress in 1980, and final regulations were issued by HCFA (now CMS) in 1982. The regulations define a CORF as a “nonresidential facility that...is established and operated exclusively for the purpose of providing diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons by or under the supervision of a physician.” The CORF program has not significantly changed since its inception, other than a provision in 1987 to allow for off-site billing for physical therapy, occupational therapy, and speech-language pathology.

In essence the term “CORF” is simply a federal designation that allows services to be billed to Medicare, essentially making the CORF certification a means of reimbursement for services provided in these facilities. Aside from a general direction that the CORF must provide a comprehensive rehabilitation program that includes, at a minimum, physicians’ services, physical therapy services, and social or psychological services, CORF certification does not define programs. Instead, CORF certification allows for multidisciplinary services to be reimbursed based on a fee schedule that includes nursing, social services, respiratory therapy, and drugs/biologicals, in addition to the traditional services of physical therapy, occupational therapy, speech-language pathology, and psychology.

¹ Cherilyn G. Murer, JD, CRA, *As the Focus Narrows*, Rehab Management, February 2002 at 48-49.

The Competitive Advantage of CORFs

Compared to other traditional venues for the delivery of outpatient rehabilitation services, such as rehabilitation agencies and hospital-based outpatient departments, CORFs currently enjoy reimbursement, medical management, and administrative advantages that enhance their attractiveness to individual investors. CORFs have the ability to bill Medicare directly for nursing, social services, psychological services, durable medical equipment, drugs and biologicals, immunizations, and respiratory therapy in addition to physical therapy, occupational therapy, and speech-language pathology.

CORFs also enjoy key administrative advantages over rehabilitation agencies and hospital outpatient departments. CMS regulations applied to rehabilitation agencies require physicians to review the patient's plan of care at least every 30 days, whereas the CORF regulations requires a physician to review the plan of care only every 60 days, thereby permitting planning for a longer-range, complex care program. CORFs are excluded from the provider-based requirements that are applicable to most hospital outpatient departments regardless of location. All hospital-based entities or departments, unless specifically exempted from the requirement of obtaining provider-based designation, must meet provider-based requirements and file attestations for provider-based designations in order to be reimbursed by Medicare as part of a hospital. Thus, most hospital outpatient departments, even if they are located on the hospital's campus, must comply with the provider-based requirements.

The key financial advantages for the individual CORF owner result from the greater efficiency of the CORF format as opposed to higher cost facilities such as hospitals. Both types of providers are reimbursed by Medicare under fixed payment systems: the physician fee schedule in the case of CORFs and the outpatient prospective payment system in the case of hospital departments. Because CORF facilities are designed and staffed to provide only outpatient rehabilitation services, they are generally a significantly lower cost provider of medical services than a hospital, and, therefore, are in a much better position to make a profit under the fixed reimbursement system.

These competitive advantages have resulted in significant growth in the number of CORFs. As the attached map shows, as of July 19, 2002, there were 554 certified CORFs in the 48 contiguous states. Although most states have at least one CORF, by far the largest concentration—174—is in Florida, which is doubtless due to that state's large senior citizen population. Thus, despite the significant growth in total CORF numbers, in many areas of the country the market for CORF services is largely untapped.

How Individual CORF Ownership Works

For the individual investor, one of the significant attractions of CORF ownership is that no medical background is necessary. The Medicare conditions of participation require the CORF owner or owners, through a governing board, to retain the ultimate authority for the management of the facility, but there is no requirement that the owner or owners participate in the facilities day-to-day operations. Instead, the chief responsibility of the CORF ownership is to assume full legal responsibility for establishment and implementation of management and operations policies. The owners and governing body must also comply with Medicare certification requirements in terms of disclosing certain information about their ownership and control.²

Beyond these basic requirements, the most important duty that an individual CORF owner has is the appointment of two key employees: an administrator and a medical director. The administrator assumes responsibility for the overall management of the facility and implements and enforces the facility's policies and procedures. The administrator also retains professional and administrative responsibility for all personnel providing facility services.³ A CORF administrator typically has an extensive background in health care administration, including an appropriate degree, and often has a related clinical background, such as nursing or physical or occupational therapy, as well. For the administrator, and indeed all the CORF's staff, the attraction of a CORF, as opposed to a similar hospital position, is the regular hours and, due to the CORF's potential profitability, the prospect of higher pay.

Medicare's requirements for the CORF's medical director or "facility physician" are quite basic. The physician must be a doctor of medicine or osteopathy who is duly licensed under state law, has had, beyond hospital internship, at least one year of training in the medical management of rehabilitation patients, and at least one additional year of full-time or part-time experience in a rehabilitation setting.⁴ The Medicare conditions of participation require the physician to be on the facility premises for a sufficient time to provide medical direction, care, and consultation, to establish a plan of treatment for patients whose referring physician has not done so, assist in establishing and implementing the facility's patient care policies, and participate in patient review, assessment and utilization review activities.⁵

Note that the "sufficient time" requirement means that that the medical director need not be a full-time employee of the CORF. Indeed the individual CORF owner should not find recruitment of a medical director overly difficult, as physicians will often find a CORF medical directorship attractive as an augment

² 42 CFR § 485.56(a).

³ 42 CFR § 485.56(b).

⁴ 42 CFR § 485.70(a).

⁵ 42 CFR § 485.58(a).

to their income from their own medical practice. Moreover, the individual CORF owner usually does not need to be concerned about direct competition from physicians, as the physician anti-self-referral laws and regulations generally prevent physicians from owning CORFs.⁶

Beyond the CORF administrator and the medical director, the regulations provide that the services required by the plan of treatment must be furnished by qualified personnel (meaning that all personnel providing patient services must possess all required state licenses and certifications)⁷ and that the number of qualified personnel must be adequate for the volume and diversity of services offered.⁸ Significantly, professional services do not have to be provided by facility employees. Instead, the CORF may arrange to provide the required services through contractual arrangements with outside personnel.⁹

The physical plant requirements for the CORF are also quite general. The regulations state that the CORF “must have on its premises the necessary equipment to implement the plan of treatment and sufficient space to allow adequate care.”¹⁰ As one would expect, the facility must meet all applicable Federal, State, and local building, fire, and safety codes, and there must be adequate fire extinguishing, fire alarm, and emergency lighting equipment.¹¹ The physical environment must be maintained in a sanitary condition, and have in place an appropriate infection control program.¹² Recordkeeping requirements are similar to that of other medical facilities, with specific requirements regarding the contents of each patient’s record, record retention, and the confidentiality of patient records.¹³

Conclusion

None of the Medicare program requirements for CORFs is insubstantial, and they do require a serious commitment to supplying quality health care on the part of the CORF owner. As we have seen, however, compared to other venues for the delivery of rehabilitation services, CORFs offer distinct economic and administrative advantages. Thus, for the individual entrepreneur who is looking for an opportunity that offers the possibility of relatively secure long-term return on investment, as opposed to a high-risk immediate return, the CORF structure is well worth considering.

⁶ Significantly, CORFs do not come within the “whole hospital exception” to the self-referral laws that permits physician-owned hospitals. 42 USC § 1395nn(d)(3).

⁷ 42 CFR § 485.70.

⁸ 42 CFR § 485.58(d).

⁹ 42 CFR § 485.58(d).

¹⁰ 42 CFR § 485.58(d).

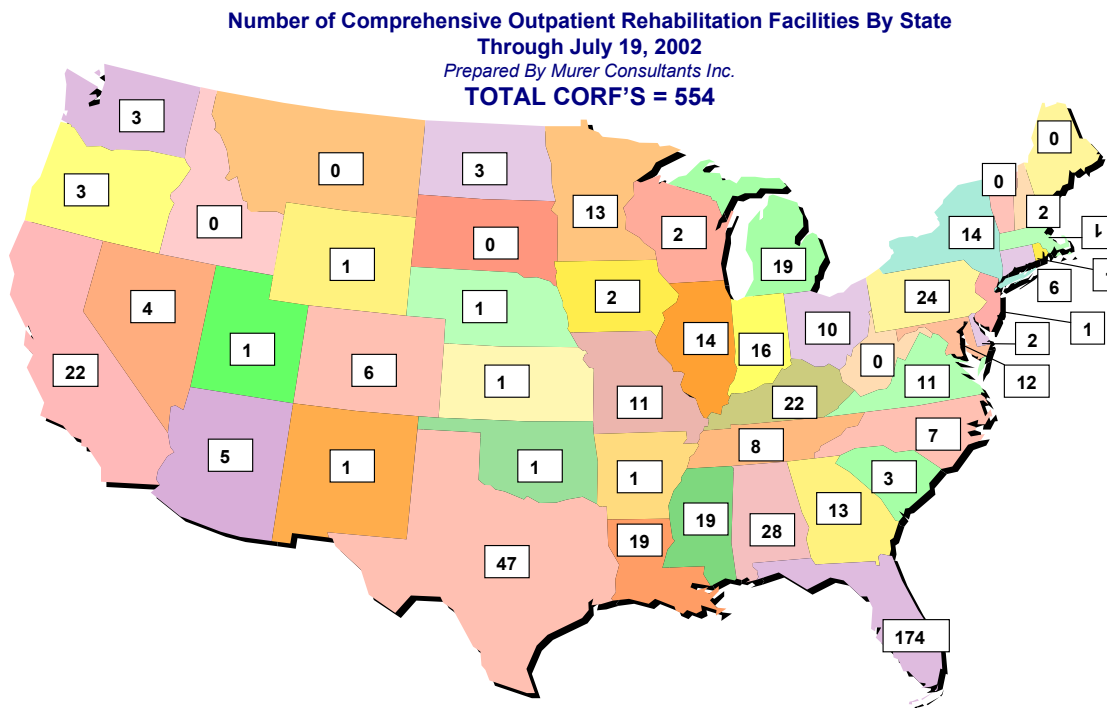
¹¹ 42 CFR § 485.62(a).

¹² 42 CFR § 485.62(b).

¹³ 42 CFR § 485.60.

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