



Market Conditions Contributing to Commercial Reasonableness



Market Conditions Contributing to Commercial Reasonableness

There can be a number of contributing factors that impact the commercial reasonableness of a contract. Some of these factors are organization-specific, but others may be external market factors.


We previously outlined six questions and considerations that can be used to determine commercial reasonableness:

1. Determine the duties and responsibilities of the physician.
2. Consider the physician's background and experience, as well as her knowledge of the business.
3. Does a physician have to perform the service, or can it be done by another clinician or professional?
4. Is it necessary to have a physician of a certain specialty in the position?
5. Consider the economic conditions of the marketplace.
6. Is this a service that hospitals typically pay physicians to provide?

The first four factors relate to the specific organization and job under consideration. People within your organization are best equipped to address the scope of the position and whether a particular physician is necessary or qualified to provide the required services. You may have a situation and set of conditions that justify the need to pay for a physician's services. However, the last two points above are external factors outside the organization's control, and in some situations, may strongly influence the need to pay for a position. Benchmarking and market data can be powerful tools to help understand the market, answer these questions, and craft a strategy for obtaining the needed physician services.

Economics Conditions

Physician demand is often a key factor in determining commercial reasonableness for particular positions. Overall economic conditions are not something you can control, yet it is important to be in tune with the market so that you know when you may need to pay more to align with the right physician. Consider what type of hospital you are, and how that affects physician payments. For example, if you are a trauma center and have more strict and demanding requirements for emergency coverage, paying physicians to help you meet these requirements simply must be done.



MD Ranger suggests comparing your facility to similar organizations to determine whether or not compensating a position is commercially reasonable, and to set the most appropriate payment rate for a specific position. There can be major differences between what a 400-bed trauma center with 75,000 emergency visits pays for plastic surgery coverage and what a 75 bed rural hospital needs. Look for market data that allows you to assess more sophisticated drill-downs into types of facilities to get the best comparisons for your organization.

Do hospitals generally pay for this service?

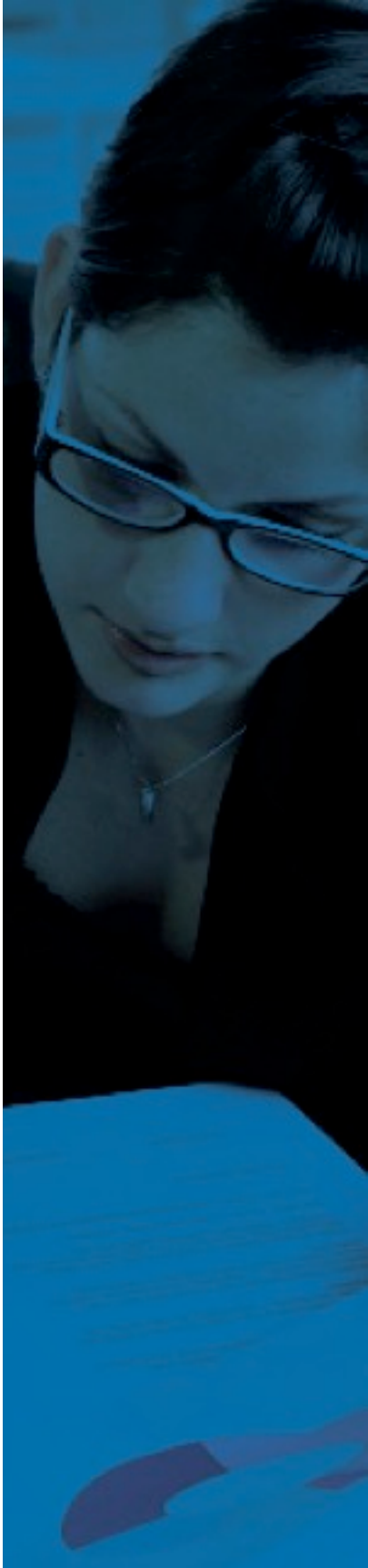
Numerous factors contribute to whether hospitals typically pay for a position or not. For call coverage, consider the size of the panel and emergency visit volume, and how likely the physician is to get called to the hospital during a shift. A particularly burdensome call schedule could be a good reason to pay. Poor payer mix or high indigent care could also be a consideration in the need for and level of compensation. Lastly, consider if the physician is restricted from revenue generating activities while on call, or if the physician is required to be on-site during the shift. These two factors most definitely contribute to higher per diems.

In order to help hospitals determine commercial reasonableness, MD Ranger collects data on the frequency of payment for particular services among subscribing hospitals. Because MD Ranger collects all contract data from its subscribers, the database is used to determine the percent of hospitals who report paying for a service. These market data allow hospital leaders to make informed decisions when they are determining commercial reasonableness.

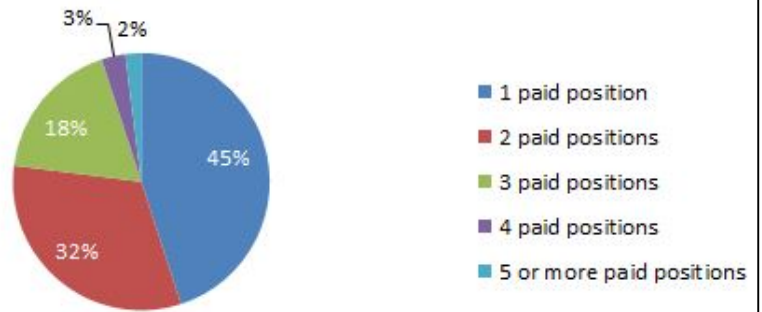
A critical consideration for physician administrative and directorship positions is how many paid positions for a specialty exist at your facility and across the organization. When your facility is considering paying for a role in a specialty that already has paid administrative roles, what is being proposed might not be commercially reasonable.

For example, in pathology, 45% of MD Ranger subscribers report having one paid administrative position and 32% report having two. Having three or more directors is quite rare. If your facility has four or five paid administrative positions in pathology it could be justified; however, we suggest that you develop additional documentation for needing the additional positions.

It isn't the same across all specialties or positions. For example, paying four or five administrative positions in cardiology is almost as common as paying one position, as demonstrated below.



Number of Paid Pathology Administrative Positions per Facility 2014



Source: MD Ranger, Inc.

The MD Ranger Total Facility Benchmark Report by service provides another tool for assessing the commercial reasonableness of various payments and positions. These benchmarks provide an aggregate payment amount by service for all positions in a particular specialty. These comparisons may help assess situations with multiple directors or proposed co-directorships.

Because there is significant variation across specialties, it is important to benchmark your directorship and administrative positions using multiple factors. MD Ranger has found that some hospitals simply have too many medical directors. Not only does this problem affect your financial position, it also increases your compliance risks.

To summarize, while determining whether it is reasonable to compensate a doctor at your organization, it is important to look at all the factors that play into commercial reasonableness. In order to make smart decisions, facilities need access to high quality, comprehensive market data that include not only payment rates, but also other important factors such as frequency of payment and number of positions.