

MANAGED CARE CONTRACT NEGOTIATIONS – A REVIEW AND SOME NEW TRICKS

The benefits

- It is the easiest way to improve the practice's bottom line. Once you take the time to analyze and negotiate all your contracts, it is about maintenance every year after that. Maintenance involves requesting an increase several months prior to every renewal.
- You may learn that certain contracts are actually costing the practice money
- It is an opportunity to streamline processes and get control

The approach

- Financial analysis of practice
- Evaluate current contracts
- Negotiate language and rates
- Evaluate performance of contracts
- Followup on denied claims
- Evaluate proper rates being paid, timely payment

How to get started

- The only way to do it is dive in or have someone dive in for you.
- Get to know the reps. Ask for your current contract.
- You can't get what you want unless you ask. And ask again. And again.
- The language in a contract matters. There are financial implications whether it be direct or indirect through administrative requirements.
- If you ask for an explanation of contract language and get something that sounds like an empty promise, (e.g. We have never unilaterally lowered reimbursement and don't plan to in the next five years...) send your understanding via e-mail and request confirmation that your understanding is correct.
- Don't be afraid to ask questions. Reps may not understand the provision either.

The worst provisions I see lately (even after the MCO lawsuits)

- You agree to abide by our sanction policies, which we haven't actually drafted yet, so you can't review them.
- Policy changes will be posted on the website – like you have time to check every carrier's website
 - **Physician** agrees to comply with **XYZ's** quality assurance, quality improvement, accreditation, risk management, utilization review, utilization management and other administrative policies and procedures established and revised by **XYZ** from time to time and, in addition, those policies and procedures which are set forth in **XYZ's** Physician's Administration Manual, or its successor (hereinafter referred to as the "**Manual**"), and bulletins or other written materials that may be promulgated by **XYZ** from time to time to supplement the Manual. The Manual and updated policies and procedures may be issued and distributed by **XYZ** in electronic format. Paper copies may be obtained by **Physician** upon written request. Revisions to such policies and procedures shall become binding upon **Physician** thirty (30) days after such notice to **Physician** by mail or electronic means, or such other period of time as necessary for **XYZ** to comply with any statutory, regulatory and/or accreditation requirements.
 - Provider and Participating Providers shall comply with and be bound by all applicable provisions of Health Benefits Plans, Company's provider handbook, and Company and Payor policies, procedures and directives, including, but not limited to, policies relating to case management, quality assurance, billing, claims and payment, credentialing, grievance review, utilization management, and quality management. Such policies and procedures and other documents may be amended by Company or Payors from time to time. Company shall make such policies and procedures and other documents, including any amendments thereto, available to Provider and Participating Providers upon request. Company may make such information available to Provider and Participating Providers via its website.
- "We" pay 1x0% of Carrier Name's 2006 Medicare Fee Schedule.
 - **Group** agrees to accept as payment in full from Payors for Covered Services rendered to Members covered under Plans offered by Payors with access to XYZ Network and not otherwise specified in paragraphs B and/or C below, one hundred fifteen percent (115%) of **XYZ's Medicare** (005-300) Fee Schedule or eighty percent (80%) of **Group's** billed charges, whichever is less, less any Copayments due from Member.
- You must get permission from us to dismiss a patient.
 - In the event Provider or a Participating Provider wishes to discontinue providing care to a Member, Provider or Participating Provider shall give Company and Member advance notice and give the Member a reasonable opportunity to correct the situation. If the Member does not correct the situation to the satisfaction of Provider or Participating Provider, Provider or such Participating Provider shall

notify the Member that he or she must select another physician not affiliated with Provider or the Participating Provider within thirty (30) days. Provider or Participating Provider is responsible for continuing to provide care until the earlier of the expiration of the thirty (30) days or the selection of another provider by the Member.

- You must pay for copies of all the records we request in our utilization review policies that may change at any time or claims processing.
 - Copies of such records for the purpose of claims processing shall be made and provided by **Physician** at no cost to **XYZ** or the Member.
- We reserve the right to accumulate data regarding your performance and share it with others.
- You must participate in all products we offer but we may not offer you all products.
 - Should **XYZ** and/or Payor elect to offer any such new products to **Group**, **Group** shall be provided with sixty (60) days' written notice from **XYZ** prior to the implementation of such new product. If **Group** does not object in writing to the implementation of such new product within such sixty (60) day notice period, **Group** shall be deemed to have accepted participation in the new product.
- You must purchase tail coverage or make sure tail coverage is purchased on all your docs when they leave.
 - If Company, Provider, or Participating Provider coverage is "claims made" coverage, the party shall maintain tail insurance for claims arising as a result of its obligations under this Agreement. The obligation to maintain tail coverage shall survive for a period of three (3) years following termination or expiration of this Agreement. A party shall notify the other in writing, at least thirty (30) days in advance of any material adverse change to, or cancellation of, such coverage. The obligations under this Section 5.3 shall survive termination of this Agreement regardless of the cause for termination.
- Your physician employment agreements must contain certain provisions which we have drafted for you.
 - The form of Group's standard agreement with such Represented Physicians shall contain all provisions required by applicable law and shall include a Participant and Payor hold harmless provision acceptable to XYZ, consistent with applicable law and which provides, among other things, that Represented Physicians shall look solely to Group for compensation for Covered Services if payments for Covered Services under this Agreement are directed to Group. Such form and any material amendments thereto must be approved in advance by XYZ which approval shall not be unreasonably withheld. Upon request, Group shall make available to XYZ and to any applicable regulatory authority a copy of each such Represented Physician agreement.
- You may not sue us, but if you cause us any damages you must pay us back.

- You may not get out of our contract until 90 days after the initial term, which is 3 years.
 - Notwithstanding anything to the contrary herein, either party may terminate this Agreement without cause at any time following the end of the initial term of this Agreement by providing to the other party ninety (90) days prior written notice of termination.
- We may change our rates at any time, even though we just spent 6 months negotiating them.
- We may recoup money for an indefinite period, but you may only submit claims for 180 days.
 - **Group** agrees that Payors may recover overpayment made to **Group** by Payors by offsetting such amounts from later payments to **Group**, including, without limitation, making retroactive adjustments to payments to **Group** for errors and omissions relating to data entry errors and incorrectly submitted claims or incorrectly applied discounts.
- We may penalize you for referring out of network.
- You must abide by our grievance procedure, in which we make the final decision.
- You may not participate in medical society lawsuits.
 - Class-based arbitration shall not be permitted.
- You are on your own regarding getting paid. We are just the middle man. And, no, you can't terminate Payors unless you give them 60 days to cure. If they cure, you can't terminate. If they do it again, you give them another 60 days to cure.
 - **Group** hereby agrees that in no event, including, but not limited to, nonpayment by Payor, or Payor's insolvency, shall **Group** bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against **XYZ** for services provided by **Group**.
- Your equipment must never break or you are liable. We reserve the right to tell you if your equipment is working and whether you can use it.
 - **Physician** shall maintain all office medical equipment including, but not limited to, imaging, diagnostic and/or therapeutic equipment (hereinafter referred to as "**Equipment**") in acceptable working order and condition and in accordance with the Equipment manufacturer's recommendations for scheduled service and maintenance. Such Equipment shall be located in **Physician's** office locations that promote patient and employee safety. **Physician** shall provide **XYZ** or its agents with access to such Equipment for inspection and an opportunity to review all records reflecting Equipment maintenance and service history. Such Equipment shall only be operated by qualified technicians with appropriate training and required licenses and certifications.

- Equipment owned and/or operated by **Physician** shall comply with all standards for use of such Equipment and technician qualifications established by **XYZ**. **Physician** agrees to comply with all requests for information related to Equipment and **Physician's** and/or **Physician's** staff, qualifications for use of same. In the event: (i) **Physician's** Equipment fails to meet **XYZ's** standards; or (ii) **Physician** declines to comply with **XYZ's** standards for use of Equipment, **Physician** agrees that it will not use such Equipment while providing services to Members and shall not bill, charge, seek payment or have any recourse against **XYZ** or Members for any amounts for services with respect to such Equipment.