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Ohio Health Care Providers Get Clearer Health Plan Contracts

by **Kevin D. Devaney and Sarah C. Dobrzykowski**

The Healthcare Simplification Act (Act) was signed into Ohio law in March of this year. The Act, one of the most progressive of its kind in the United States, is meant to create transparency and clarity in the contracting process between health care physicians/providers (providers) and third party payers by regulating the contents of health care contracts. The Act, which was supported by the Ohio State Medical Association and the American Medical Association, is highly favorable to providers.

The Act prohibits some actions by third party payers that are currently commonplace in health care contracting, while also requiring specific disclosures to the providers. The majority of the Act will become effective June 25, 2008, with a few parts to become effective September 23, 2008 (uniform credentialing standards) and March 31, 2009 (prohibition of silent PPO's).

The first phase of changes will require third party payers to make certain disclosures to providers. These disclosures include clearer statements in provider contracts of what the third party payer will pay for services performed by the provider, a "summary disclosure form" clearly outlining key parts of the provider contract, and notification to the provider of any "material" changes to the contract. Besides the disclosures, third party payers also are barred from placing certain clauses in their contracts with providers. Specifically, providers cannot be required to supply services for all of the third party payer's products, or be prohibited from offering their services to other third party payers, thereby eliminating contractually mandated exclusive arrangements.

The Act also creates a two-year moratorium on "most favored nation" status for providers. Most favored nation status requires providers to guarantee the payer the

provider's lowest rate offered to third party payers. Under the Act, a committee will be established to study whether most favored nation status should be banned completely. The committee is required to produce a report by January 2010.

In Comes:	Out Goes:
<ul style="list-style-type: none">• Transparency and Clarity• Uniform Credentialing• Summary Disclosure Forms	<ul style="list-style-type: none">• Silent PPOs• Mandated Exclusive Contracts• Most Favored Nation Status

A potential paradigm shift is the ability for physicians to verify eligibility of patients on a real time basis. (No more providing services to an employee who unknown to the physician was dropped from the health care plan the day before.) The system would tell the provider whether the patient is covered under the health plan and how much of the charges the patient will be responsible for personally. A committee report on the feasibility of the web-based system can be expected by January 1, 2009.

In a move to significantly reduce the paper load on overburdened physicians, effective September 23, 2008, the Act requires third party payers to use one uniform credentialing form. The Act also is looking out for physicians' pocketbooks. Effective March 31, 2009, third party payers will no longer be able to assign their rates to other entities. These so-called "silent PPOs" currently enable third party payers to in some cases improperly pay for access to other third party payers' provider networks and then reimburse the providers at the lowest negotiated rate available.

Enforcement of the Act is under the purview of the Ohio Department of Insurance which is to investigate and pursue any violations of the Act. Any pattern of violations under the Act will constitute unfair and deceptive trade practices, subjecting offenders to substantial penalties. The protections afforded under the Act will be phased in as new contracts are entered into, renewed or substantially amended after the effective date of the Act.

For more information on the Healthcare Simplification Act, please contact Mr. Devaney or Ms. Dobrzykowski at our Toledo office (419-241-6000).



Mr. Devaney is a member of the Firm who routinely represents individual and medical group practices' interests in transactions and dealings with the two major health care systems in the marketplace, including assisting physicians with medical staff professional review actions. Mr. Devaney is also a registered pharmacist.



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