

STRATEGIC HEALTH CARE

**Managed Care
Contracting:**

Going Out of Network

**Strategic Health Care
Managed Care Division**

Presented by:

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PRESENTER BIO:

Robert B. Ooton, Esq.

Bachelor's Degree Politics & Government, Illinois State University, 2003

Juris Doctor, University of Akron School of Law, 2006

Admitted to the Ohio Bar in November of 2006

Managed care payor & patient experience with Anthem


Managed care payor & provider experience with Molina Healthcare

Managed care provider & payor experience with Strategic Health Care

Primary focus on financial analysis, contract term analysis, and legislative/regulatory compliance.

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OUTLINE:

- The Bottom Line: Revenue & Relationships
 - Decision-making Factors
 - Facility factors
 - Payor factors
 - Other factors
 - The Weighting Game: What & When
 - Dealing with Mistakes
 - Questions & Answers
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THE BOTTOM LINE:

All managed care contracting comes down to two critical aspects:

REVENUE & RELATIONSHIPS

REVENUE: You don't want to take a contract that puts you in the red.

RELATIONSHIPS: You don't want to take a contract that puts you in a bad relationship.

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REVENUE:

The payor's first offer is usually the weakest offer they've given to anybody in their network.

Somebody signed for that rate, likely without considering the consequences: "We have to contract with _____!"

The single most important aspect of revenue is ensuring that your costs are covered. This requires you to know your costs.

The next most important aspect of revenue is ensuring that you receive an adequate and realistic profit margin.

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RELATIONSHIPS:

Bad relationships with payors are a cost to you.

- Your time, and your employees' time
- Authorization procedures
- Quality Improvement & Utilization Management
- Audits

Good relationship with payors are an investment.

- Easier to get your concerns heard and resolved
- Faster participation in processes
- Better pay!

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FACTORS IN DETERMINING WHETHER TO GO OR REMAIN OUT OF NETWORK:

Facility Factors: Physicians, Competition, Utilization, and Staffing

Payor Factors: Volume, Contracting Requirements, Compensation, Plan Types, Competence, Assignment of Benefits

Other Factors: Collections, Employer Groups

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FACILITY FACTORS:

Physicians

Competition

- Better them than me
- Better me than them
- Nobody but me
- First one to sign

Utilization

- Open time
- Higher-paying time
- Available resources

Staffing

- Additional employee expenses
- Medical: nurses, assistants
- Administrative: attorneys, managed care contractors, billing specialists, accounts receivable, audit specialists, etc.

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FACILITY FACTORS:

The factor that nobody likes to think about...

... is that you might save money by doing fewer procedures and limiting your hours of operation.

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PAYOR FACTORS:

Volume

Contracting Requirements

Compensation

Plan Types

Competence

Assignment of Benefits (AOB)



PAYOR FACTORS (VOLUME):

How many covered lives does the payor have in the area and how much would you expect volumes to increase?

You have to decide if there is a slice of the pie that you are not getting due to being out of network, how big that slice is, and whether it is worth contracting for.

If the contract would bring significant volume, delays can occur that might trouble physicians.

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PAYOR FACTORS (CONTRACTING REQUIREMENTS):

Items to look out for and understand...

Unilateral amendment

Prohibitively short billing and dispute deadlines

Overly cumbersome compliance requirements

Penalties for noncompliance

Long initial term

Unreasonably delayed termination without cause

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PAYOR FACTORS (COMPENSATION):

Costs

Acceptable Profit Margin

- Easier to ask for more up front than to get money back later
- Different facilities may have different expectations
- Something is better than nothing

Annual Increases

- Your costs (likely) increase each year
- Your contracts should increase accordingly

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PAYOR FACTORS (COMPENSATION):

Methodologies

- Percentage of a standard
 - The Good: if it goes up, so does your reimbursement
 - The Bad: if it drops, so does your reimbursement
 - Medicare: 2007 vs. 2009
- Percentage of charges
 - The Good: most control over your reimbursement
 - The Bad: changes to chargemaster are usually capped
 - Beware maximum charge provisions
- Payor-created fee schedule
 - The Good: varies by payor
 - The Bad: varies by payor, subject to unilateral change
 - *Warning: may be masquerading as a percentage of a standard!*

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PAYOR FACTORS (COMPENSATION):

Methodologies (continued)

•Carveouts:

- The Good: allow you to tailor a contract to ensure that costly and/or common procedures pay adequately
- The Bad: complicate the contract, may reduce likelihood of correct payment, may become irrelevant over time

•Multiple Surgery Logic:

- The Good: allows you to recoup costs associated with non-primary procedures
- The Bad: may complicate the contract, may reduce likelihood of correct payment, usually only covers one or two additional procedures

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PAYOR FACTORS (PLAN TYPES):

Rental Networks

- Who can access the network?
- Rental networks can disrupt your existing contracts

High-Deductible Health Plans

- Patient responsibility could be excessive
- Collect up front wherever possible

Employer-Funded

- The joy of TPAs
- Potential difficulties in collection

Discount Cards

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PAYOR FACTORS (COMPETENCE):

Key Questions:

Does the payor or TPA administer the contract correctly?

Is payment made in a timely manner?

How much time are you devoting to the payor?

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PAYOR FACTORS (AOB):

In Ohio, payors may choose not to honor a valid AOB from an out-of-network provider, subject to certain restrictions (e.g. notice to hospitals).

If payors do not honor the AOB, then they can pay the patient directly and the patient is responsible for payment to the provider.

Some payors use this loophole to force providers into a contract.

Depending on your ability to collect and/or sell the debt, this may be a compelling reason to contract.

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OTHER FACTORS:

COLLECTIONS:

- What percentage of charges do you collect from this payor's out-of-network patients?
- Do you expect the contract to change this number significantly?

EMPLOYER GROUPS:

- In some areas, a small number of employers may contain a large portion of the insured population.
- You may have to contract to ensure that the particular group(s) can access your services.
- Option: contract directly with the employer group(s)

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THE WEIGHTING GAME:

How do I make these determinations?

Look at each payor on a case-by-case basis. Judge them on their merits based on your particular experiences with them and the circumstances at the time of analysis. Be careful not to get hung up on experiences in a different region of the State - sometimes, a different Provider Services Team can make all the difference.

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THE WEIGHTING GAME:

When do I make these determinations?

The more often you look at your contracts and the payor's performance, the more likely you are to spot trends that may impact your decision on whether to contract or remain in-network.

Optimally, you would do this on a quarterly basis, but no less than annually. Some events should trigger research, especially the movement of large employer groups from one insurer to another. If this happens, evaluate both the prior insurer (to determine whether their volumes still support the discount) and the potential new insurer.

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DEALING WITH MISTAKES:

The contract isn't working, what should I do?

You have three possible choices: you can do nothing, attempt to rehabilitate the agreement & relationship, or terminate the agreement.

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DEALING WITH MISTAKES:

DO NOTHING:

- Nothing is easier than ignoring the problem.
- Nothing is likely to get solved, either.

REHABILITATE:

- Work with the payor to correct any problems.
- Identify your issues clearly and offer signature-ready solutions.
- Facilities may benefit from leveraging physician and/or hospital relationships.

TERMINATE:

- Sometimes, a payor just won't budge until they see a termination notice.
- May result in being out-of-network, so pull this trigger with caution.
- Leave amicably, if at all possible – you may have to work with them later.

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QUESTIONS & ANSWERS:

If you have any questions you would like answered now, please raise your hand and I'll be happy to discuss them during our remaining time.

If you would prefer to bring up the question privately or if I was not able to answer your question today, please feel free to email me at bob.ooton@shcare.net or call me at (614)255-0309.

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