

# MANAGED CARE

## Contracting & Reimbursement

# ADVISOR

DECEMBER 2005

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## Direct contracting: Seven advantages of dealing directly with employers

Don't be surprised if more employers ask you to sign a contract directly with them. Direct contracting is on the rise again as employers try to reduce the escalating costs of health insurance by cutting out the plan middleman.

But what does direct contracting mean for providers? You may have heard that there can be big advantages to a direct deal with an employer, but you may not be familiar with what those advantages are and how they can help you.

If you understand the potential benefits of direct contracting, you can better evaluate any direct contract an employer offers you and judge whether it provides these advantages. And if the contract isn't as advantageous as it could be, you'll be prepared to raise those shortcomings with the employer or even refuse the deal.

To help you prepare to deal with direct contracting, we'll explain why it's becoming more popular and discuss seven potential advantages to contracting directly with an employer. We'll also tell you what each advantage means to providers.

### Direct contracting becoming more popular

Employers turn to direct contracting to contain the costs of health administration and control the way employees obtain treatment. Some employers also consider direct contracting because they want to give their employees access to providers who have dropped out of local plan networks. And some enterprising providers approach employers about direct contracting, according to direct contracting expert **A.J. Lester**.

"No one expects providers to drop out of all of their plan contracts. But direct contracting can be very profitable for providers and should be part of their business mix," Lester says. The key is to pick and choose so you only step into direct contracting deals that are advantageous to you.

#### Potential advantage #1: Provider networks are more exclusive.

In a typical managed care arrangement, the plan creates a provider network and markets it to all employers in a region. Because it deals with a wide range of potential customers, the plan must have a large provider network with broad geographic and clinical coverage. But in direct contracting, the provider network is more exclusive—it's made up mostly of providers that the employer/employees have requested.

"The employer often surveys its employees to find out who they would want in the network or makes lists of providers that employees have previously used," says Lester. The employer then approaches only those targeted providers about

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**Managed Care Contracting & Reimbursement Advisor** (ISSN 1533-5453) is published monthly by HCPro, Inc., 100 Hoods Lane, Marblehead, MA 01945. Subscription rate: \$217/year; back issues are available at \$25 each.

Postmaster: Send address changes to **Managed Care Contracting & Reimbursement Advisor**, P.O. Box 1168, Marblehead, MA 01945

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signing a direct contract.

**What it means to providers:** If you're among the providers approached by the plan, expect direct contracting to preserve or increase your business, says Lester.

Because the employer usually creates a smaller network, it means that the employer will steer its employees toward the network's providers, he notes.

So you'll likely keep existing patients from that employer and probably obtain new ones. Conversely, if you don't sign up, you may lose existing business and the opportunity for new business from that employer.

**Tip:** If an employer approaches you about direct contracting, find out how large the employer's network will be and how many other providers in your specialty have been invited to join. If the employer isn't creating a more selective network, ask why.

"If it seems like a less exclusive arrangement, you may not get as much new business from that employer, and your reimbursement will be lower, too," says managed care consultant **Adel Miles**.

### Potential advantage #2: **Employer, not plan, controls termination.**

Because the employer selects and controls the network, the employer, not the plan, has control over terminating a provider's contract, says **Roger Merrill, MD**, corporate medical director for Perdue Farms, a large multi-state employer that uses direct provider contracting.

"Unlike in a plan network, the employer has the flexibility and option of terminating a provider whose care isn't following accepted norms or, for example, who can't work with the employer's modified duty program. By the same token, a provider that has been excluded for political reasons from a local, commercial plan can, nonetheless, be included in an employer's direct network," he explains.

**What it means to providers:** You have a much smaller risk of being arbitrarily terminated for several reasons. You're not dealing with plan bureaucrats who don't know you and have no stake in the relationship or who won't cut you slack for an administrative error on your part. Also, the network is smaller.

So those in charge need you more and are less likely to get rid of you arbitrarily. Plus, they probably think of you more positively just because of the selectivity with which the network was put together. For example, Merrill has terminated only three providers (out of more than 5,000) from the network during the 15 years in which Perdue has used direct contracting.

But problems such as a complaint from one employee-patient can potentially have a bigger effect than a similar complaint from a plan member.

### Potential advantage #3: **Easier administrative setup.**

From an administrative standpoint, employers are often easier to work with than plans. There's no plan acting as a middleman in a direct employer

contract. The employer will either maintain its insurance program in-house or hire a third-party administrator (TPA) to handle network administration for it.

**What it means to providers:** Not having a plan involved in administration is often beneficial to a provider, who no longer has to go through the time-consuming and frustrating process of dealing with a plan over claims, appeals, operations, and other matters.

“An employer is less likely than a plan to focus on trivial problems or penalize a provider for a small matter,” says Merrill.

But it’s not always easier. For example, an employer that decides to administer its program in-house may have problems implementing it, especially if the employer is inexperienced, warns Miles.

One of her hospital clients had to deal with an employer in a direct contract situation that improperly loaded the negotiated fee schedule into the employer’s database, causing the hospital to be underpaid.

“Just like with a plan contract, a provider will have to watch for problems and monitor that the employer is complying with the contract, including paying correctly,” she notes.

#### **Potential advantage #4: Streamlined credentialing and utilization management.**

Direct contracting typically has fewer requirements regarding management and credentialing than a plan would.

“An employer may [apply] utilization review and case management, but it’s built around the employer’s needs, not what the plan dictates to the provider and employer,” says Lester.

An employer also generally doesn’t credential its providers.

**What it means to providers:** An employer’s simpler utilization management and credentialing requirements would reduce your administrative burdens. For example, you may not have to submit credentialing paperwork every year or spend time on the telephone or a plan’s Web site obtaining preauthorization. You also may have more freedom to treat patients without being second-guessed by the plan.

If the employer hires a company to handle its utilization review, you’ll have more stringent obligations for utilization management than you would if the employer handled it directly. But at least it will be based on the employer’s own preferences, not what a plan dictates, says Lester.

**Tip:** Before agreeing to a direct contract, find out whether it has credentialing requirements and determine the details of an employer’s customized utilization program. If an

employer with which you’re considering contracting has credentialing and utilization management requirements that are as burdensome as a plan’s, ask why. There’s nothing necessarily wrong with strict requirements, but know ahead of time what obligations and burdens to expect and whether you’re willing to comply with them.

#### **Potential advantage #5: Simpler and fairer contracts.**

Plan contracts are long, complex documents. Although thoroughness is always important for a contract, many of the clauses in plan contracts are one-sided in favor of the plan and often unfair. In contrast, an employer’s direct contract is usually shorter and less onerous. Some employers will even negotiate from the provider’s form or suggested contract, says Lester, who on several occasions has done so on behalf of large employers.

**What it means to providers:** A more even-handed contract that doesn’t include unnecessary or onerous provisions is always better for providers. Of course, you can sign and return the contract without carefully reviewing and negotiating it. But employers are usually more willing to negotiate contracts.

“It’s not in an employer’s interest to look for short-term gain at the risk of long-term loss and an adverse relationship,” says Merrill.

Perdue uses 25 versions of hospital contracts for its 60 hospitals and 100 versions of physician contracts for its 5,000 physicians. “[The system is] easy to administer. They’re all on a database,” Merrill notes.

**Tip:** When reviewing a direct contract, keep in mind that an employer contract may have clauses with which you disagree. Items such as clauses that limit your right to bill members for noncovered services or not imposing penalties for paying late might create concern. “You can’t allow these loopholes,” warns Miles.

The employer contract may also be missing clauses that are important for you. For example, if you’ll be paid based on usual and customary rates, your contract should define both “usual and customary rates” and how they will be calculated.

“The contract still needs to cover all of the issues to a provider’s satisfaction,” says Miles.

#### **Potential advantage #6: Employer sets own rates.**

Because there’s no plan involved, the employer isn’t constrained by the plan’s reimbursement rates or fee schedules.

**What it means to providers:** The reimbursement rates an

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employer initially offers you will often be higher than a plan's because the employer no longer has to pay for a plan's services. There's more money available to pay providers, even after the employer's expenditures to perform administrative services internally or for hiring a TPA to do it.

In addition, "the employer can craft reimbursement to meet its philosophy," Merrill explains.

For example, Perdue's physician contracts reimburse at almost billed charges for evaluation and management services because Perdue sees primary care physicians as its first line of defense in keeping its employees well and on the job, says Merrill.

The employer's reimbursement rates are also more negotiable. "If a provider feels strongly about pricing for a particular code, we can usually negotiate to make both parties happy," says Merrill.

**Tip:** If you're offered a direct contract, check the rates carefully and negotiate any rates you would like to see higher. If the rates are too low and the employer won't negotiate them with you, you'll need to assess whether you want to directly contract with the employer.

#### **Potential advantage #7: Direct communication with the employer.**

In a direct employer contract, a provider and employer

can communicate more directly than if the plan were involved. Even if the employer uses a TPA for administrative services, the provider and the employer still have direct access to each other to discuss lost claims, quality improvement ideas, and other issues.

**What it means to providers:** "If a problem crops up, the provider and employer are more likely to work together to resolve it. It's good client relations on both sides," says Miles.

Merrill notes that providers call him regularly about claims and other issues.

Direct communication can also promote the exchange of ideas and improve patient care. For example, one contracted physician in Perdue's network suggested that Perdue look into the electronic prescribing of medications. Based on that suggestion, Perdue opted to join an electronic medical prescription pilot program.

"The relationship between provider and employer is much less adversarial than if a plan were involved," says Lester. ■

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## MANAGED CARE IN COURT

### **\$167 million settlement between physicians and HMOs**

U.S. District Judge Federico Moreno on September 27 approved a \$167 million settlement reached by Health Net and Prudential Financial Services in a class-action lawsuit filed by about 950,000 physicians.

According to an Associated Press report, Health Net will pay \$40 million to active and retired physicians, spend an estimated \$80 million to improve the process of dealing with bill submissions and reimbursement requests, and pay \$20 million in the physicians' attorney fees. Prudential will pay \$22.2 million to improve its processes and \$5 million for attorney fees.

Health Net and Prudential were among the 10 defendants named in the massive class action brought by doctors and medical societies against the nation's largest HMOs. In the lawsuit, physicians allege the HMOs delayed or denied reim-

bursements for medical services and illegally rejected claims for necessary services.

"The judicial approval of this agreement advances a very basic principle: that the physicians' input is a critical part of the healthcare system. We are delighted that Judge Moreno has approved the settlement," said Archie Lamb, lead counsel for the physicians. "We hope it puts leverage on the other health plan defendants to move ahead and resolve this suit without the need for a protracted trial."

According to Harley Tropin, an attorney for the physicians, they have entered negotiations with the four defendants that remain—Coventry, Humana, PacifiCare and UnitedHealth—with the lawsuit scheduled to proceed to trial in January 2006. ■