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Insurance Carriers and ODS: Beginning of the End?

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Although most chiropractors may not have heard of the term *organized delivery system* (ODS), most doctors readily recognize the names Triad Healthcare, American Health Specialty Network (ASHN), OptumHealth and other entities licensed as an ODS. Recent legal headlines have brought to light that the carrier-ODS relationship may be teetering, under pressure from regulators, doctors, patients and legislators for questionable practices that have been negatively impacting chiropractic care. Here's a sampling of some of the major ODS players impacting chiropractic patients and providers, including a synopsis of some of their dubious tactics challenged in court by the chiropractic profession over the past several years.

American Specialty Health Network (ASHN)

In December 2012, the American Chiropractic Association (ACA), along with a representative of both patients and the chiropractic profession, filed a sweeping class-action lawsuit that alleges a multitude of potentially fraudulent and illegal behaviors that ASHN (and Cigna Insurance) have perpetrated against the health care public.[1] The lawsuit alleges numerous improper practices by ASHN / Cigna including manipulation of Explanation of Benefits (EOBs), numerous violations of ERISA and various state prompt-pay laws, restrictions of care through their pre-authorization process, and excessive copay requirements.

As recently as 2011, the Connecticut attorney general required Aetna and ASHN to "review and reprocess chiropractic benefit claims that may have been denied improperly under Connecticut law." According to the AG, "Connecticut law requires health insurance plans to cover chiropractic care 'to the same extent' coverage is provided for services rendered by a physician. Chiropractors licensed in Connecticut are permitted to provide a wide range of services, such as the use of X-ray and other diagnostic technology, the administration of foods and vitamins and preventative care. Cigna's claims process did not have payment codes for all the services chiropractors were authorized to provide in Connecticut, even though the same services provided by medical doctors were covered."[2]

OptumHealth

In 2009, UnitedHealth Group acquired Health Net's health business in the northeastern U.S. Financial reports reveal huge revenue numbers making United the largest private health plan in the country. In 2011, the Ohio State Chiropractic Association (OSCA), joined by the ACA and the Congress of Chiropractic State Associations (COCSA), filed an amended class-action lawsuit against United Health Group and its subsidiaries, including OptumHealth, for their alleged "abusive overpayment recoupment, pre-service plan and concurrent claim denials."[3]

The lawsuit alleges, according to OSCA, that the "post-payment audit and review process as applied by the Defendants violates ERISA, in that its repayment demands are retroactive adverse

benefit determinations that particular services are not covered under the terms of the United and Health Net health care plans," and do not provide for proper appeals or other protections otherwise available under ERISA for both self-funded and fully insured health care plans.

The OSCA also alleges that both United and OptumHealth did not follow federal ERISA regulations when they denied pre-service and concurrent care claims when provided by chiropractors.

Triad Healthcare

In 2009, the New Jersey Department of Banking and Insurance cited Triad Healthcare for numerous violations / abuses including "failure to fully implement [a] remediation plan in accordance with New Jersey Department of Banking and Insurance Bulletin 07-23," which required all N.J. organized delivery systems to "re-adjudicate all claims improperly denied due to a network provider's failure to obtain preauthorization or precertification of medical treatment." Other violations noted by the N.J. DOBI in its review of Triad's market conduct activities included "unfair denials based on erroneous precertification requirements," "failure to maintain auditable claim records and unfair denials," "failure to notify providers and members of internal appeal rights on remediated preauthorization denials that Triad adjusted as medical necessity denials," and "failure to provide reasonable explanation for denial of benefits and utilization of misleading statements in written notice of adverse determinations."[4]

Breaking News: Triad Dropped by Aetna on N.J. PPO Policies

After an eight-month onslaught of chiropractor and patient complaints, Aetna has decided to drop the use of Triad with its PPO policies, a program implemented in June 2012. Aetna announced on its website that after less than one year, it was ending Triad's handling of PPO policies in New Jersey.[5]

What's an ODS?

According to the NewJersey Department of Banking and Insurance, "An Organized Delivery System (ODS) is a legal entity that contracts with a carrier for the purpose ofproviding or arranging for the provision of health care services to thosepersons covered under a carrier's health benefits plan, but which is not alicensed health care facility or other health care provider.

"Examples of the typesof entities that are an ODS include preferred provider organizations (PPOs),Physician Hospital Organizations (PHOs) and Independent Practice Associations(IPAs). In order to contract with a carrier, an ODS must become licensed orcertified. However, by law, an entity that only contracts to providepharmaceutical services, or case management services, or employee assistanceplan services does not have to become licensed or certified."[7]

Representatives from the Association of New Jersey Chiropractors (ANJC) had ongoing meetings

with state regulators as well as Aetna / Triad, exposing the litany of complaints, inaccuracies, problems and confusion that patients and chiropractors were experiencing. According to ANJC, Aetna / Triad attempted to place a $53 global fee on all participating providers that would encompass virtually all services provided, including diagnostic studies and a multitude of other procedures typically performed by the chiropractic profession.

The expansion of Triad apparently was doomed early with confusion over a "ten visit waiver" which was never fully explained to doctors. Tens of thousands of chiropractic claims were either not processed or improperly processed, and confusing and inaccurate information was sent to providers, resulting in doctors fleeing from network participation. ANJC became aware of these issues because many of the DCs experiencing / reporting problems with Aetna / Triad (and ultimately forgoing network participation) are ANJC members.[6] In large part due to the great number of patients and doctors complaining about incorrect information and other ongoing problems, Aetna re-evaluated the use of Triad and how it was performing.

Taking a Stand

In light of these and other situations, more insurance carriers may reconsider utilizing an ODS in the future, knowing that patients and doctors will not tolerate abuses and limitations when it comes to their health and their valuable health care dollar. Industry sources have told us that the costs of handling complaints seems to be more expensive for carriers than the money they save utilizing an ODS. Obamacare is forcing carriers to look in every direction to scrape an extra dollar into their pockets, and states throughout the country are seeing the different methods employed by the carriers to build on profits.

The moral to this story is that when doctors, and especially patients, file formal complaints to the insurance carrier, as well as to their own state insurance department, positive change can result. Educating doctors on the appeals process, motivating the patient to take action, and taking legal recourse when potential violations of federal and state statues occur, are all important steps that can force insurance carriers to play by the rules.

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