

Myths About Direct Contracting Keep Employers in the Dark

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Cutting out the middleman is an idea as old as business itself. Yet when it comes to managed care, myths about the risks of employers contracting directly with medical providers to cut health plan costs have kept otherwise savvy employers from seriously considering this very effective alternative.

Many myths have been propagated by carriers, PPOs, HMOs, brokers consultants, and others whose interests are vested in commercial provider networks. Direct contracting cuts them out of the picture, so managed care middlemen *don't* support its use by their employer clients.

As annual health plan costs continue their double-digit surge and problems with conventional PPO & HMO networks continue to mount, employers are desperately seeking a solution. It's time to expose the myths about direct provider contracting so employers can understand its true value as a viable alternative to commercial networks.

Myth1: Direct contracting exposes an employer to greater liability

The truth is, employers are *not* exposed to greater liability with direct provider networks. Each of our clients' legal departments has researched, addressed, and reviewed the legal issues surrounding direct contracting. These legal departments and my firm have searched extensively and have found *no cases* in which an ERISA plan that used direct networks was litigated against.

In fact, direct contracting may pose no greater risk of litigation than any other benefit program component and may actually offer *greater* protection against it. First, direct contracting is intended only for self-insured employers whose plans are governed by ERISA, which offers built-in protection against liability. ERISA preempts state tort laws and limits the employee's ability to hold an ERISA plan liable for malpractice under state laws, which govern malpractice, not ERISA.

Second, every direct provider agreement clearly establishes that the employer is *not* providing or directing medical care and has no role whatsoever in any medical decision. This "arm's length" relationship is reinforced with a clause that the employer will not interfere in the delivery of medical care and will respect the doctor/patient relationship at all times.

Third, the direct agreement clearly state that the doctor is independent of the employer and that the doctor, not the employer, is directing and providing the medical care. This complies with ERISA's preemption of medical negligence claims where the employer has

arranged for benefit administration and determination of benefits (through a TPA and UR provider) according to the plan design, and though the employer is ultimately *paying* for medical care, the employer is not providing or directing the care itself.

Myth2: Direct networks create more administrative burdens and higher costs

The truth is, once direct networks are developed, the administrative and cost advantages of "owning," rather than "leasing" become quickly apparent. There are no recurring network access fees; less physician attrition; fewer employee complaints; simpler, self-renewing contracts; better provider relationships; straightforward plan design features; and the ability to choose the best contractors for UR, Case Management, TPA, etc.

Because doctors are treated fairly in the direct agreement and enjoy a better business relationship with the employer than they ever do with commercial PPOs or HMOs, the number of problems an employer has to handle is consummately reduced. As a result, direct networks run quietly and smoothly for years with less day-to-day involvement necessary from the employer's benefits staff.

Myth 3: Large numbers of employees are needed to negotiate direct provider contracts.

The truth is, physicians and hospitals contract with employers for limited numbers of employees because the direct agreement is fair, reimbursement terms are not disadvantageous, and its simply a smart decision to do business directly with employers in their own community.

A local employer, regardless of size, represents an *established group of existing lives* as prospective patients, ready to use the direct network providers. We've successfully developed direct networks in areas where the employer had as few as 25-30 employees and medical providers were happy to do a direct agreement with the employer.

Myth 4: Employers cannot negotiate as good a deal with providers as can a carrier or PPO.

The truth is employers can often negotiate just as good a deal, but it's necessary to define what a "good deal" really is. A large PPO with a ten thousand members *should* enjoy greater clout when it comes to negotiating provider fees than would a medium-sized employer with 500 covered lives. But, PPOs *never* release the details of their provider agreements, nor the

actual reimbursement terms. Instead they state their deals in terms of “savings.” So there’s no way to verify whether a good deal has really been obtained or whether *all* the savings given by the provider are actually showing up for the employer.

Escalating plan costs in the midst of so many PPO networks may indicate that their deals are not that good, but employers *and* provider will never know because PPOs keep all contractual details hidden from both parties.

Direct agreements fully disclose all contractual details so employer and provider know the “deal” they’re getting from the start and nothing can be hidden by a middleman’s “cut.”

Myth5: Doctors who don’t contract with commercial PPO networks won’t contract with anyone

The truth is that doctors have had disadvantageous agreements pushed upon them by HMOs and PPOs for years and have become increasingly wary of managed care contracting. Some have even cancelled existing agreements with commercial networks.

By contrast, direct contracting has been embraced by providers because it offers a fundamentally relationship than commercial managed care and the advantages of doing business directly with employers. Offered mutually advantageous “win-win” agreements, most providers actually welcome the opportunity to contract with employers.

For many doctors, the very fact it’s a direct agreement with the employer (as the ultimate payer) and not a PPO or HMO provides a compelling reason to participate in a direct network.

Myth 6: Direct contracting doesn’t work in areas where doctors will get the patients anyway

The truth is that direct contracting works well in areas where doctors will get the patients anyway, mainly because it’s a good business decision. Even in outlying areas, most doctors and hospitals realize that employers in their communities simply can’t offer managed care to employees without a network of participating providers.

Signing a direct agreement establishes a working business relationship between provider and employer, one that has definite advantages for the provider. In consideration for a discount or reduced fee, direct agreements generally provide for quicker reimbursements, better benefit payment levels, and easier access to the ultimate payer (the employer).

Doing business directly with employers in their own town is also a gesture of good community relations for any physician, medical group, or hospital to demonstrate.

Myth 7: Carriers and managed care companies can’t (or won’t) process claims for direct networks

The truth is that processing claims and administering benefits for employer-owned provider networks are well within the technical/systems capabilities of most carriers and commercial PPOs. Their seeming inability or unwillingness to adjudicate direct network claims is one of the ways employer clients are held captive in the networks that are owned, leased, or arranged by the carriers and managed care companies.

If an existing carrier or managed care company cannot or will not administer claims for an employer-owned network, there are plenty of third party administrators (TPAs) than can handle it, usually at a lower cost per employee. For employers that want to have direct networks in select locations (but keep commercial networks elsewhere), using a TPA is a convenient and cost-effective way to get the job done.

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Over the past ten years, A.J. has developed networks for major self-insured employers including, SYSCO Corp., Perdue Farms, Parker Hannifin, U.S. Cellular, and Blue Bell Creameries. A.J. has negotiated direct managed care agreements with tens of thousands of physicians and hundreds of hospitals across the U.S.

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