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HOSPICE AND PALLIATIVE CARE PRACTICE GROUP

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HOSPICE MANAGED CARE CONTRACTS: TEN SELECTED CONSIDERATIONS

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When contracting with managed care organizations, hospices are encouraged to consider the following:

1. **Recitals**

- Are all parties with contract obligations included?
- Is this a repricing agreement? Is the contract with the payor or an intermediary?
- If the contract is with a PPO network, the hospice should be aware that it is agreeing to a discount, often without any payment protections.

2. **Definitions**

- Are terms consistent throughout the contract?
- Give particular attention to the following:
 - Covered benefits/hospice services
 - Eligibility
 - Medical necessity
 - Utilization review

3. **Covered Services**

- Do covered services follow a home health approach? Medicare hospice model? (Caveat: unbundled care is *not* hospice care)
- Are there co-pays and deductibles?
- Is there a prior authorization requirement? Concurrent review?

- If coverage follows Medicare, are admission criteria consistent with Medicare's?
- Be sure that you have reviewed the managed care organization's rules and procedures and that you are comfortable with them.

4. Payor Responsibilities

- Timeliness of claims payments;
- Coordination of benefits;
- Marketing: Use of hospice's name permitted? Under what circumstances?
- Exclusivity;
- What can you expect from the payor? Again, in the case of a PPO, there will be numerous payors who are usually not bound to the agreement.

5. Hospice Responsibilities

- Licensure/certification requirements;
- Right to determine admissions? Discharges?
- Quality assurance/utilization review;
- Billing procedures;
- Liability insurance requirement;
- Indemnification requirement;
- Medical records maintenance and access;
- Coordination of benefits obligations;
- Privacy;

Many times provider contracts are not designed for hospices and responsibilities are ill-suited to hospice providers. Don't sign "boilerplate" agreements unless you are sure you are prepared to meet their terms.

6. Compensation

Payment mechanism:

- Discounted fee-for service?
- Medicare-type per-diem?
- Per case?
- Capitation?
- Does the hospice have adequate data to safely enter into the

proposed agreement?

- If there is a risk transfer, is there a stop-loss provision or risk corridor?
- Is there a question regarding whether the hospice's assumption of financial risk would constitute the business of insurance?
- Is there a timely claims payment provision? Is it acceptable?
- Is there a penalty?
- Can claims be denied retroactively?
- What are the hospice's rights and responsibilities in the event of nonpayment?
- May the hospice "balance bill" the patient/family?
- Are rate increases built in? Tied to an index?
- Is the methodology for renegotiating rates clearly defined?

7. Term and Termination

- Effective date;
- Length of term and renewal provisions;
- Termination for cause? Without cause?
- Rights and duties upon termination: obligation to continue care?
- If the agreement is not working for the hospice, how easy will it be to end it?

8. Dispute Resolution

- How will disputes under the contract be handled?

9. Managed Care Legislation May Lead to New Contractual Obligations

- Credentialing;
- Quality assurance;
- Access to care/continuity of care;
- Managed care organizations may have additional obligations under state law regarding access, continuity and quality of care. Make sure you are prepared to address any contractual requirements.

10. Compensation Is Only Part of the Contracting Picture!

- (But certainly a very important part). Be sure to carefully review and negotiate all contracts with payors.

This list should not be considered legal advice. Hospices are encouraged to have managed care contracts reviewed by their legal counsel.

Reinhart Boerner Van Deuren's Hospice and Palliative Care Practice Group serves hospices across the country in a variety of areas, including: regulatory compliance; survey and certification; accreditation; licensing; HIPAA; caregiver misconduct investigations; due diligence, mergers and acquisitions and other corporate matters; labor and employment; criminal and civil investigations by state or federal government agencies; litigation; contracts and daily operational issues.



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This article does not constitute legal advice nor serve as a substitute for legal advice.
Hospices are encouraged to contact their legal counsel.