

Insurers Nationwide Continue to Drop Medical Providers from Medicare Advantage Plans

Since last fall, tens of thousands of physicians, medical practices and pharmacies nationwide, and their patients, have received notifications from some of the country's largest Medicare Advantage plan providers, including health insurance giants UnitedHealthcare (UHC) and Humana, that the physicians, and entire provider groups, will be terminated from the insurers' Medicare Advantage networks in 2014. The terminations, often with little or no explanation, have caused extensive disruption to doctor-patient relationships in many states.

In many instances, the terminations are accomplished through amendments to the physicians' provider contracts with the insurers – amendments that are issued unilaterally and do not require the consent or signature of both parties. Such contract amendments often provide no recourse or appeal under the terms of the contract. Given the magnitude of the terminations and the lack of apparent recourse directly through the insurance companies, some medical associations, physicians and provider groups have chosen to pursue their claims in the courts, commencing litigation and challenging the terminations as violations of the insurer/provider contract.

In December 2013, a federal judge in Connecticut temporarily blocked UHC's attempt to drop over 2,000 physicians from its Medicare Advantage plan in that state. The preliminary injunction prohibits UHC from terminating the physicians from UHC's Medicare Advantage Network and from notifying its Medicare Advantage insureds that certain providers will be terminated from coverage. The court found that the physicians presented sufficient evidence at the hearing to demonstrate irreparable harm to their reputations and practices and a likelihood of "success on the merits," i.e. their contract-based claims supported their argument that the terminations were not supported by the language of the contract or the parties' prior practices under it.

UHC has appealed the imposition of the injunction to the U.S. Court of Appeal for the Second Circuit. The outcome of the case, given the potential for national implications, has drawn the attention of the American Medical Association and more than 30 additional medical associations and physician advocacy groups that have filed "friend of the court" briefs, arguing that the injunction remain in place as it is necessary to preserve due process of law and prevent disruptions to longstanding relationships between doctors and their patients.

While the outcome of the case before the Second Circuit remains to be seen, momentum is building for physicians, provider groups and medical associations to challenge Medicare Advantage provider terminations in the courts as the only available recourse. As the Connecticut/UHC case demonstrates, there are legal options available in challenging Medicare Advantage provider terminations.

Roetzel lawyers have actively and successfully represented health care practitioners both prior to filing litigation and in litigation in order to preserve the physician or pharmacy's contractual provider rights. Roetzel lawyers have also successfully implemented compliance plans to address and deflect any risks or concerns allegedly made by the insurance companies.

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