Coverage Transparency

and the Role of Fiduciaries

Investopedia states "A fiduciary is a person or organization that acts on behalf of another person or persons, putting their clients' interests ahead of their own, with a duty to preserve good faith and trust. Being a fiduciary thus requires being bound both legally and ethically to act in the other's best interests. A fiduciary may be responsible for the general well-being of another (e.g., a child's legal guardian), but the task often involves finances-for example, managing the assets of another person or a group of people. Money managers, financial advisors, bankers, insurance agents, accountants, executors, board members, and corporate officers all have fiduciary responsibility."

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As many of us have experienced, the medical industry can make it very challenging for TPAs, brokers, insurance carriers, cost containment vendors, and others to meet this standard as many medical networks and providers are not transparent with their costs to the extent that many will threaten the other party to rescind the pricing discount, limit access to the network, and/or terminate the relationship. Believe it or not, the medical network, provider, and carrier are fiduciaries themselves. Make no mistake, one of the reasons for the lack of transparency is due to the individually negotiated network discounts by TPAs, brokers, employers, etc. Since they are negotiated individually, the delta among the discounts can be significant, hence the stonewalling.

To no surprise, since the enactment of the Consolidated Appropriations Act (2021), the needle has moved very little involving the main characters needing to be transparent. This Act had several key components as it relates to this article—the prohibition of surprise medical billing and requirements price transparency. Further, effective July 1, 2022, t he Transparency in Coverage Final Rule issued by the Centers for Medicare and Medicaid Services (CMS) went into effect. However, nearly two years later, in many cases, the bullying tactics of not providing the requested information continue. Not only is the medical information withheld, often the recipient is not allowed to audit the services. Imagine getting your car serviced, and not only are you not told what services were performed, but you're also not allowed to assess if you were over charged by evaluating the cost(s) or even if the services were necessary in the first place.

We are now seeing legal cases making headlines as medical networks are being sued for their lack of transparency. As fiduciaries, we have a duty to perform to our clients' best interest and demonstrate we have taken every possible step. As a stop-loss coverage provider, we believe this is necessary, because it is inevitable that the brokerage, TPA, cost containment vendor, and/or carrier community will be sued by an employer due to the contractual choke points in the network agreement.

Despite the challenges, with the support of our TPA and broker partners, we are finding cost savings for medically unnecessary services being rendered. Given this opportunity, we are confident that we'll find additional cost savings.

We believe that the medical community should operate as a business and make a profit. However, there are issues that must be addressed within the community that affect services and costs. One component is the suppressed cost in Medicare rates. Another is to evaluate normalizing network agreement prices to avoid significant differentials in cost between agreements. The easiest way to describe this is to consider the mass in a water balloon as the revenue needed for the network. By squeezing one end, the mass (costs) shifts to the other end. Medicare is clearly a component that is squeezing the cost increases in the private sector. Only time will tell how increased coverage transparency will impact the future of our industry.

Joe Dore is President of USBenefits Insurance Services, LLC.

USBenefits Insurance Services, LLC dba Employer Stop Loss Insurance Services, LLC (USB) is a full service Managing General Underwriter. We officially launched in July of 2007. Our founding members believed that to be successful, understanding our clients' current and future needs comes first. That simple principle has shaped all subsequent development of the company and is the foundation on which we have grown. Since then, USB continues to be a viable stop loss market to Third Party Administrators, brokers, consultants, and other forms of stop loss / employee benefits producers, as well as a product line resource to our customers and stop loss community.

USBenefits has complete responsibility for all administration, claims, and underwriting decisions. Staffing includes Claims, Underwriting, Administrative and Marketing professionals who work in concert to deliver not only financially stable stop loss products, but unparalleled stop loss services. Your goal is our goal – to provide the best possible outcome for the employer.

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