

OUR PRACTICE

Managed Care

With mounting pressure to control health care costs, the techniques and strategies of managed care - once confined to health maintenance organizations - have become ubiquitous. Now, virtually every government health care program and private insurance plan incorporates elements of managed care, negotiating contracts with providers to care for members at reduced costs. Managed Care Organizations (MCOs) now also take many forms, including Health Maintenance Organizations (HMOs), Preferred Provider Networks (PPOs), Third Party Administrators (TPAs), Accountable Care Organizations (ACOs), Independent Practice Associations (IPAs) and Integrated Delivery Systems (IDS).

Managed care is increasingly one of the most heavily regulated sectors of the health care industry. And every state has its own rules. As a result, the legal and business issues that affect managed care contracting and payment issues are complex and constantly evolving, requiring sophisticated advisers who can respond quickly and adeptly to a client's changing needs. Litigation involving MCOs is also on the rise. Baker Donelson's managed care attorneys have years of experience, both as in-house counsel and as outside legal advisers.

Managed Care Litigation

Managed care litigation is a rapidly-evolving field of complex commercial disputes, involving participating (contract) and out-of-network providers, public and private payers, arbitration and other forms of ADR, litigation in state and federal courts, and high-stakes bench and jury trials. Baker Donelson's health care litigators have extensive experience in such issues, including representation of payors and providers in contract and non-par disputes. Our attorneys have handled managed care disputes before AAA, JAMS, and AHILA panels, as well as in state and federal trial and appellate courts. Issues confronted include out-of-network reimbursement in both commercial and government lines, narrow networks, class actions, network termination and business torts, audits and pre-payment review, coding, alleged false claims, and reasonable rate disputes. Supported by our health care regulatory and transactions teams, our managed care litigators have tried arbitrations, bench trials, jury trials, and state and federal appeals arising out of such managed care disputes.

Contract Development and Negotiation

Managed care contracts present complex issues of responsibility, liability and risk, with overlapping federal and state laws and regulations to consider. They demand experienced counsel.

As advisors to health care providers and MCO entities, Baker Donelson attorneys have experience developing and negotiating a wide range of agreements, including hospital system contracts with national insurers and contracts between physician groups and health plans. Baker Donelson attorneys also have extensive experience drafting and reviewing provider agreements with government payers including Medicare and state Medicaid managed care plans. As MCOs look for increased efficiencies, value-based contracts and risk sharing arrangements are an emerging trend. Baker Donelson's attorneys have assisted clients in developing and negotiating contracts that are compliant with state and federal laws related to risk sharing and value-based compensation.

Development and Structuring

Baker Donelson attorneys have a broad range of experience helping to develop and structure MCOs, including forming IPAs and ACOs and assisting a hospital system structure and obtain regulatory approval for a new

provider-owned HMO. The Firm's broad health care experience also enables us to help clients with matters such as provider selection criteria and compliance with the accreditation standards of organizations like the National Committee for Quality Assurance (NCQA) and The Joint Commission. Baker Donelson lawyers have rendered cradle to grave services starting up MCOs, as well as winding them down.

Regulatory Compliance

MCOs must adhere to multiple layers of complicated regulation, with every state having its own robust set of compliance requirements that organizations must meet daily. Moreover, in addition to state insurance regulators, some of our MCO clients are also regulated by the Centers for Medicare and Medicaid Services (CMS), as well as by state Medicaid managed care programs. Throughout our health care practice, Baker Donelson's core philosophy is to help clients avoid trouble by working proactively to navigate regulatory hurdles. Our attorneys routinely work with insurance companies, HMOs and PPOs, provider entities and organizations among others, to develop and implement regulatory compliance plans. We have served as national counsel for licensing issues for our MCO clients.

In addition, we routinely represent clients before state insurance departments, state legislative bodies and the National Association of Insurance Commissioners on matters involving all aspects of the health insurance arena. The aforementioned representation includes working with all interested parties and governmental officials in the development of legislation, model laws, rules and regulations, as well as policy.

We have represented clients before state governmental entities regarding provider networks and disputes between providers and payors at both the state insurance department level, as well as state legislative issues.

We also help when things go wrong, working with organizations to assess operational deficiencies, providing turnaround assistance, developing rehabilitation plans and advising troubled MCOs in state administrative proceedings.