

## Show Me The Money! Provider Protections Under the NYS Managed Care Reform Act of 2009 - Kathleen Duffett, RN, JD, Attorney at Law



“Show me the money!” Rod Tidwell asked Jerry Maguire to say this - loud and often – in that famous movie from 1996. Health care providers in NYS have been asking managed care plans to show *them* the money since at least that time.

Do NYS providers have their own Jerry Maguire? Yes, they do! Although no Tom Cruise, providers have the NYS Legislature.

### I. Brief History of Managed Care Reform in NYS

The NYS Legislature has enacted a steady series of managed care reforms since 1996, when it passed the Utilization Review Law. The External Appeal Law followed in 1998. In 2006, it passed new laws that streamlined how health plans must process claims submitted by physicians and placed limitations on overpayment recovery efforts involving physicians. In 2007, the Legislature revised the External Appeal Law to cover certain out-of-network denials. And in July 2009, Governor Paterson signed Bill No. A.8402-A/S.5472-A, a.k.a. the Managed Care Reform Act (MCRA) of 2009. Now known as Chapter 237 of the Laws of New York State of 2009, the MCRA made major changes to the managed care landscape.

### II. 2009 Managed Care Reforms: Provider Rights and Protections

The MCRA included a number of provider protections that professional organizations had been advocating for for years. Effective 1/1/2010 (unless otherwise noted), providers have the following rights and protections.

#### A. Claims Payment

1. Health plans must pay clean claims submitted electronically within 30 days of receipt.
2. Health plans are prohibited from denying payment on the basis that they are coordinating the benefit unless they have a reasonable basis to believe that the member has other coverage that is primary.
3. All health care providers, not just physicians, are entitled to 30 days written notice prior to overpayment recovery efforts (except for duplicate payments). The look back period for overpayment recoveries is limited to 24 months.
4. Health care providers can challenge overpayment recoveries. Health plans must have written policies and procedures governing how such challenges will be handled.
5. Health plans cannot treat a participating hospital as non-participating solely because the member was admitted by or otherwise treated by a non-participating hospital.

6. Effective for dates of services on or after 4/1/2010, providers must submit claims within 120 days of service if they want to receive full payment (subject to certain exceptions).

#### B. Contracting

1. Health plans must provide a contracted health care professional with 90 days advance written notice of an “adverse reimbursement change” to the contract. This is defined as “a proposed change that could reasonably be expected to have a material adverse impact on the aggregate level of payment to a health care professional.” The health care professional can terminate the contract by giving notice within 30 days of receipt of the health plan notice.

#### C. Utilization Review and External Appeal

1. Providers have the right to appeal concurrent review denials through the External Appeal Program (i.e., the provider no longer has to be appointed as the member’s designee in order to initiate an external appeal of a concurrent review denial).
2. Requests for authorization for post-hospital home health care services must be approved or denied by the health plan within one business day (72 hour turnaround time when request falls on weekend or holiday).
3. Post-hospital home health care services requests that are denied are now eligible for expedited internal appeal (a two day turnaround time v. 30 days for a standard appeal).
4. The external appeal agent must notify the health care provider of the external appeal determination.

### III. Conclusion

Managed care reforms in NYS, particularly those favoring providers, have been incremental and hard fought. But the provider protections included in Chapter 237 should result in health plans “showing the money” to providers more quickly than in the past.

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