Payer Contracting in an Era of Declining Physician Reimbursements

Introduction

We all know we are in an era of declining physician reimbursements. What physicians get paid for their services is much less than it was a handful of years ago. This is especially true regarding managed care payers.

Most providers can probably share war stories over frustrating experiences they've had with a payers' contract negotiations and reimbursements.

Physicians struggle with cash flow, hoping to get paid properly and in a timely manner while managed care payers post multi-billion-dollar profits.

Employers

It is important to understand that employers, for the most part, drive managed care.

Most employers, like any other business, want to contain their own costs while providing good insurance coverage for the owners and the employees, but do not want to pay a large sum for it.

Employers are constantly attempting to reduce or contain what they pay out for health insurance, this is often achieved by utilizing managed care plans for their health insurance coverage, simply because of the cost savings.

Managed Care Payers

Payers have a fiduciary responsibility to their shareholders, not physicians. With employers focused on cost-savings, this creates constant pressure on managed care payers when it comes to the pricing of premiums.

If health insurance plans must maintain or reduce what they charge as premiums to employers, they must find a way to maintain profits. This is often achieved by focusing on their cost structure, specifically how much they are paying their contracted healthcare providers. Reducing what they pay providers for healthcare services is one of the simplest ways for payers to maintain or increase profits.

Payers may accomplish these reductions by terminating an older agreement with very favorable terms of reimbursement for the healthcare provider, so that they may enter into a new provider agreement with less favorable terms.

This reduction in fee schedules is often accomplished by payers sending out amendments. The challenge is that healthcare providers may be given as little as 30 days to respond to these notices, with failure to respond interpreted as acceptance.

> Amendment – "Following (30) days written notice. Failure to object constitutes agreement."

Unfortunately, many healthcare providers routinely disregard such notices or fail to route them to the appropriate person for action. The opportunity to renegotiate more favorable terms is lost and the new, lower fee schedule is implemented.

Healthcare Providers

With overhead costs increasing from year to year and declining payer reimbursements, practices are struggling to find ways to increase, or just maintain, profitability.

Payer contracting, evaluation and re-negotiations is very critical to every practice, yet many practices only set up their contracts one time and allow them to automatically renew, known as an evergreen clause, without any negotiations.

Healthcare providers, now more than ever before, need to do everything in their power to collect and keep as much of their hard-earned revenue as possible. Most offices have never renegotiated their contracts and very few renegotiate them on an annual basis. This simple fact means that practices are missing out on additional revenue that can be substantial and greatly impact the practice's revenue.

To increase revenues, a medical practice must attempt to negotiate with its managed care payers. Without any attempt at negotiation, any practice will be at the mercy of any payer in its own service area.

Practices can improve their revenues through an aggressive managed care payer contracting strategy.

Understanding and Defining Your Leverage

The ability to negotiate or renegotiate a managed care contract is often determined by the amount of leverage a practice or provider has in the marketplace.

To identify your negotiation leverage (or lack thereof) and opportunities for shared benefit, start with a SWOT analysis (strengths, weaknesses, opportunities, threats).

- Strengths/Opportunities = Positive Negotiation Leverage
- Weaknesses/Threats = Negative Negotiation Leverage

Most physicians come to the negotiation table without a defined contract strategy. This strategy must be developed before the negotiation process even begins. The core of the strategy is to define up front what leverage your practice has. Some examples, but not limited to:

- Primary Care – most markets have a shortage and members are very loyal to PCPs.
- Specialists – do you perform unique procedures and/or services, are you highly trained, is there a shortage in your market, etc.?
- Groups - practices that have a significant amount of the managed care plan's provider panel usually have some form of leverage. This is because the managed care plan knows it runs the risk of losing a portion of its panel if these doctors terminate the contract. If doctors leave the plan and patients must switch doctors as a result, most will inform their employers. Payers want to keep their customers, mostly employers, happy. Employers with which you have a good working relationship – keep them informed, this is almost always overlooked.

- Payers want to keep costs (reimbursements) down. Maybe you have extended office hours, keeping members out of expensive emergency rooms. Shared cost-savings is a reasonable negotiation tool.
- If a health plan is in the early stages of developing a provider network in your area, your participation is more valuable because it can help the health plan sell its product and increase its membership. As a result, the health plan might be more willing to offer additional concessions in reimbursement levels or contract language revisions to secure your commitment to the network.

The inability to define your leverage will inevitably lead to failed negotiations. Payers certainly are not going to bring up missed points of leverage with you.

Prenegotiation

The contracting process is structured to put the physician at a distinct disadvantage. The payer typically enjoys the benefits of a dedicated legal department and a staff of financial and network analysts paid to gather and organize information regarding benefit plan costs, competitive reimbursement levels and advantageous contract provisions that will guarantee the payer's success in each contract negotiation.

As a result, physicians and their staffs must be willing to invest significant time and effort in trying to ensure a successful negotiation and secure a mutually favorable contract.

Before you begin the negotiation process, you must decide on the important issues that you want to negotiate. There are two main issues involved with any managed care contract negotiation:

1. Negotiation of financial terms, and
2. Negotiation of legal terms.

It should be no surprise that financial terms are critical factors to physicians since they have a direct impact on revenues.

For legal terms it may not be so straightforward. The objective is to try to negotiate into a contract with legal terms like the ones included in the American Medical Association's model agreement.

Understanding the Payer

Nothing is more important in any negotiation than preparation, preparation and more preparation. It is no coincidence that the party that is better prepared for a negotiation is much more likely to walk out with the best outcome. Preparation includes understanding the perspective and the goals of the payer as well as that of your medical practice.

As good contracts are a critical component to a successful revenue cycle process (no revenue cycle process can make up for bad contracts), it is worthwhile to put in the work upfront to optimize your payer contracts. Start out by understanding the payer - what is their situation, what is their reputation, what are their goals.

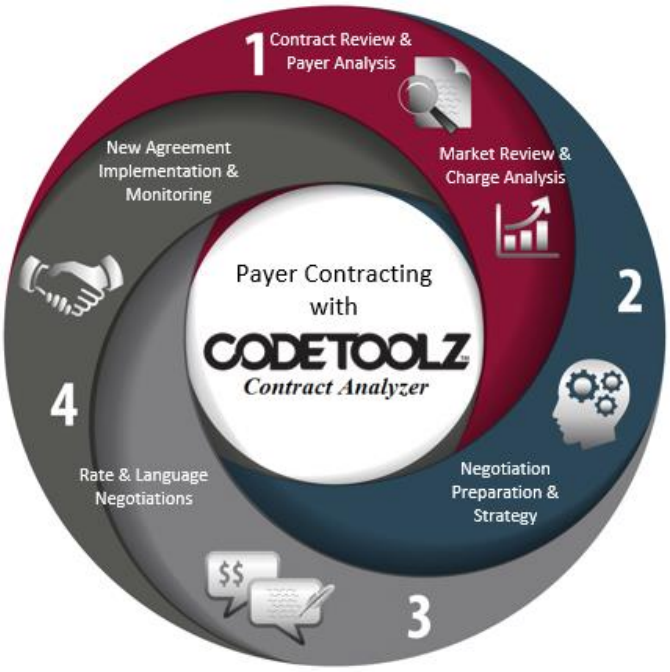
The best negotiation is a win-win scenario for both parties to the negotiation, one where each party walks away from the negotiation table knowing something was won. To achieve this, find out what issues the payer is most interested in from a contracting point of view. Your goal is to deliver these issues to the payer in exchange for what you want to achieve as part of the negotiation process.

Most payers are primarily concerned about what they pay out for medical costs. So, as an example, think about the cost drivers for your own medical practice. Put yourself in the payer's shoes and ask: How can all related costs be reduced for this medical practice?

If a medical practice can present data showing it is a lower cost provider with the same or better clinical outcomes than the other doctors of the same medical specialty on the panel, the managed care plan might consider giving the doctors an increase in reimbursement.

Good preparation is essential. Do your homework and identify your key goals, priorities, and leverage for the negotiation. You also need to have a clear (and realistic) understanding of what success looks like. Research and understand all you can about

the health plan you will be negotiating with, find precedents that may apply (speak with other practices who had successful or failed negotiations with this payer), and anticipate what the key goals, priorities, and negotiation positions will be for your negotiation counterpart – the health plan.



Negotiating New Managed Care Payer Contracts

Negotiating new contracts with payers can seem daunting, causing many practices to sign every contract without determining the impact to the bottom line or administrative responsibilities. Sometimes, no contract is better than a bad contract.

First, decide if any new payer contracts will be reviewed and negotiated before it is executed.

For any new contract you are considering executing, you should find out the answers to the following questions (not limited to):

- What is the plan's current market share in the physician's practice area?
- Which employers are currently signed up with the plan?
- Are there other physicians in the physician's medical specialty that also participate with the plan?
- Which hospitals participate in the plan?
- What are the contracting rates (reimbursements)?

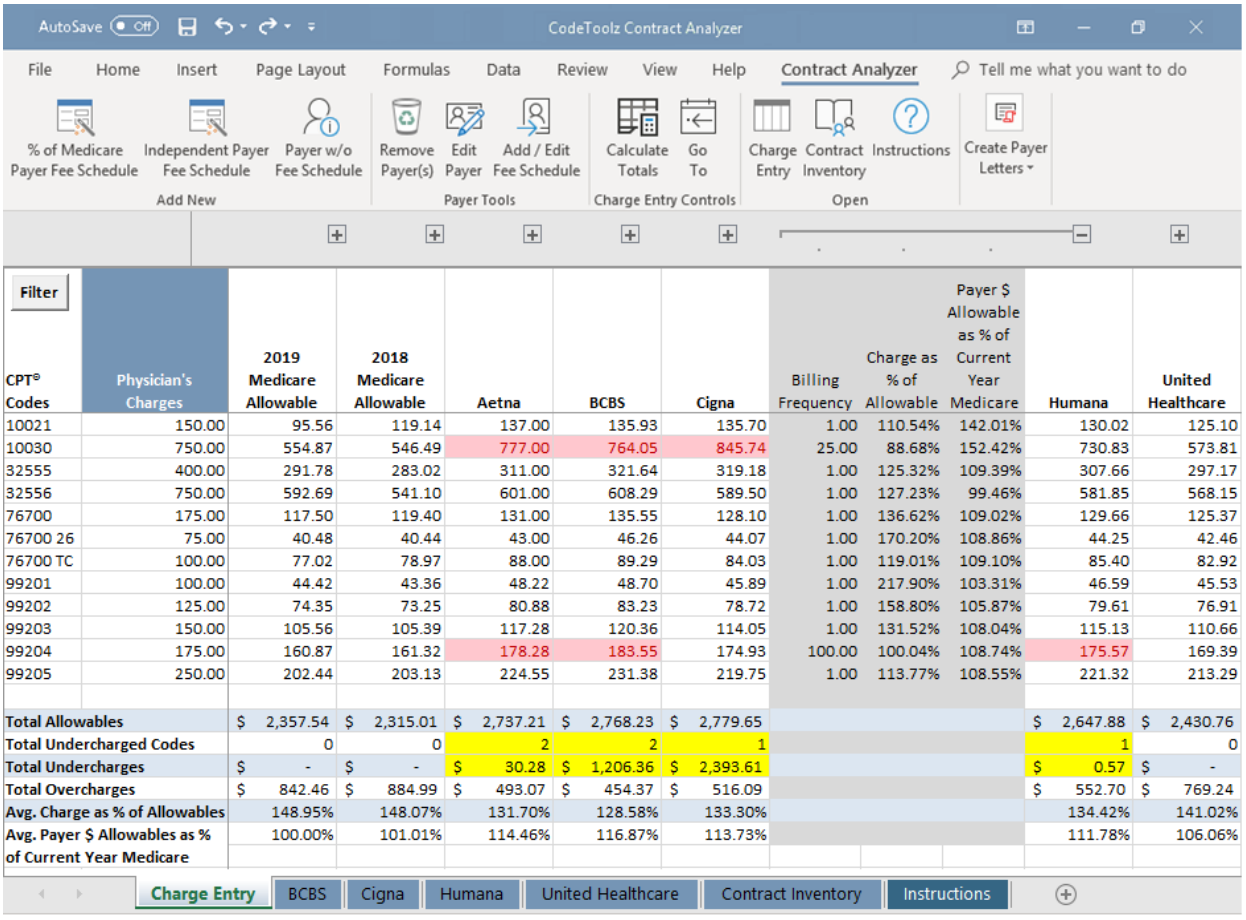
If you don't invest the time and effort to do your homework and determine the results you want to achieve before the payer contract negotiation begins, it is unlikely you will get the best result.

Renegotiating Existing Managed Care Payer Contracts – Payer Matrix

A good practice for managing existing payer contracts is to develop and maintain an updated payer matrix for the physician's practice. A payer contract matrix allows the practice to compare payer contracts on an ongoing basis, to have key contractual information easily available and provides an easy to use reference for the practice to use for renegotiating.

CodeToolz Contract Analyzer (Matrix)

This is the key information you need easily available:



* Sample Data Only

View total revenue (reimbursements) from each payer (market analysis), perform "what-if" analysis, test the adequacy of your charges (undercharges), A/R analysis and more.

The payer contract matrix elements for each practice may vary based on practice-specific issues such as specialty, payer mix, and the business strategy and goals for the practice. A solid payer matrix for any medical practice, at a minimum, should include the following (included with CodeToolz Contract Analyzer):

- Payer/Network Name
- Type of Contract (Individual vs Group and Direct vs IPA/PHO)
- Original Effective Date
- Last Anniversary Date
- Days to Anniversary
- Term (Years)
- Tied to Anniversary (Yes or No)
- Termination Notice (Days)
- Notice Due Date
- Reimbursement Rates
- Payer Representative Contact Info

Without this information complete and readily available, it can be cumbersome to figure out who to contact in the payer organization and it can be nearly impossible to determine whether your terms are fair and you're getting paid what you should.

Rate Analysis and Payer Resistance

The next step is to analyze reimbursement rates. This is probably the primary concern of most practicing physicians.

Despite regulations and trends to the contrary some payers will resist providing fee schedules (rate) information.

Resistance can occur in many forms such as unexplained delays, claiming the information is proprietary, ignoring requests, limiting how many fees can be accessed at a time and outright rejection.

When you encounter resistance, you must decide if this is a payer you want to be doing business with.

The objective is to find those services that have steep discounts attached to them. If other payers are paying a higher rate, be sure to use this in your negotiation.

Only after you have a clear picture of how the contract will affect your practice as a business can you negotiate/renegotiate effectively, to get the terms and fees you need to remain profitable.

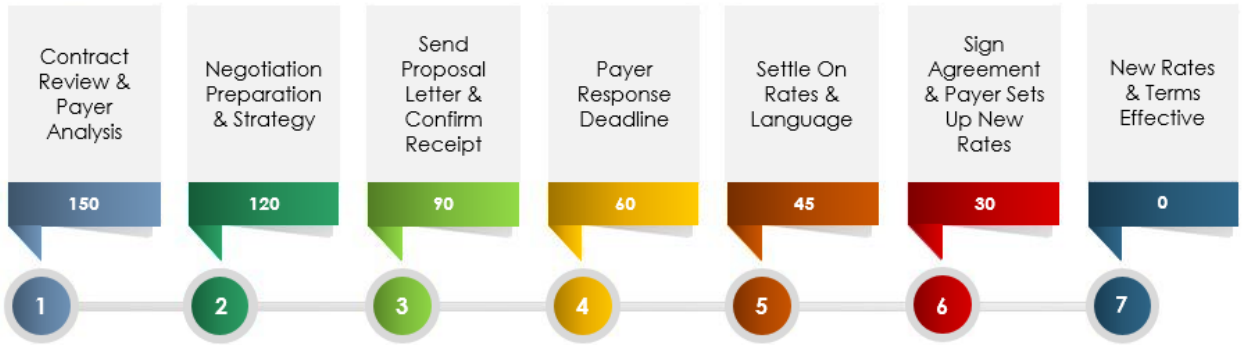
Managed care dollars represent a significant percentage of a healthcare organization's revenue. Not managing or accepting bad contracts will have a severe negative-impact on physician and group practice revenues.

Develop the Payer Contract Negotiation Goals, Priorities and Plan

You are now ready to identify your target list for payer contract re-negotiation, and your plan to achieve meaningful results.

Rank them in order of importance and time frame for commencing the negotiations based on the renewal date or new opportunities.

Create a timeline (see illustration below, assuming 90-day notice) for each contract to delineate the numerous steps necessary for successful, timely negotiations.



Be Aggressive and Reasonable

Like all businesses, payers operate from a position of what's best for the payer. Likewise, it is your responsibility to advocate for what is best for your medical practice.

Don't be afraid to compare similar payers and tell them if you believe that they are below market for practices like yours.

Be reasonable when you renegotiate. If you insist on terms that are far above market or otherwise excessive, the payer will not consider you to be negotiating in good faith.

Verify termination deadlines and pay attention to them. Contract termination can seem like a drastic measure. Sometimes, however, it must be done, particularly if a payer refuses to negotiate with you. Payers often use a "take it or leave it" approach, so can you.

Physician – Protect Thyself

Every healthcare provider and practice will have negotiating circumstances unique to them. There are however, certain provisions that should be considered as deal-breakers, you must decide, here are some common ones:

- The payer's ability to amend the contract without your signature.
- Restricted access to all applicable fee schedule information.
- Ambiguous definition of the entities that can access the contract and discounts.
- Any reference to a "most-favored-nation" clause.
- Timely filing requirements shorter than 90 days.

Conclusion

Proper managed care payer contracting can and must be done. It isn't as difficult as it seems to pay attention to payer contracts, organize key information in a readily accessible way and know what you're getting paid.

You must ensure that your prices and contract payment terms are adequate to cover the cost to provide services and remain profitable.

Fortunately, longstanding patterns of poor attention to contracts can be broken. Schedule time to manage and analyze payer contracts and fee schedules, seek out inaccuracies and unfavorable payment terms and act to correct issues.

You'll be more informed and in a much better position to compete and thrive.

Ultimately, healthcare providers need to realistically assess their importance to the health plan and use any advantage available in the negotiation process. Keep in mind that your best leverage might be your willingness to walk away without a contract.

About the Author

Dana R. Bellefountaine Jr. is the President & CEO of CodeToolz. He holds a Bachelor of Business Administration (Accounting and Finance) degree from Texas State University. He has decades of success in healthcare revenue optimization, physician practice management and physician network development at all levels.

He has extensive experience in physician services, physician practice start-ups, the evaluation of managed care contracting opportunities, strategic planning, negotiations, contract review, and analysis/modeling of contracts.