



COLORADO MEDICAL SOCIETY

"Advocating excellence in the profession of medicine"

The Colorado Medical Society Supports SB 198 Concerning Contractual Agreements with Health Care Providers to Provide Health Care Services by Senator Johnson and Speaker Romanoff

SB 198 seeks to require disclosure of contract terms and to prohibit certain unfair contracting provisions currently in practice.

The bill will require the state to develop a standard managed care contract for providers' use in Colorado. These contracts would:

- Reduce costs by minimizing administrative burdens (*MGMA Connection*, Nov/Dec 2004 issue reported "The cost incurred by medical groups alone in negotiating those contracts is at least \$700 million per year.")
- Conform to all state laws and regulations
- Be of a consistent format
- Allow for limited modification through standardized addenda
- Protect patients from provisions that place providers in positions of conflict

Ten more reasons to require standardized contracts:

1. Colorado physicians have little if any power when negotiating with managed care organizations. This imbalance can lead to physicians being forced to sign managed care contracts that are not only bad for the physician and drive up the cost of health care, but also can be detrimental to patient care.

2. A contract provision can impose perverse financial incentives (or disincentives) that make the doctor choose between caring for the patient and economic hardship. For example, some health plans' internal payment policies make a physician choose whether or not to perform two services for a patient at one visit thus risking not getting paid for both; or whether they should ask the patient to make another appointment for the second service to ensure that they will be paid but the patient will be inconvenienced (e.g., two co-pays, take time away from work or school twice).

3. The vast majority of physicians' offices represent a major small business interest and employer base in Colorado. Based on an informal CMS survey from last summer, in Colorado 48% of the practicing physicians are in solo practice, and the remaining 52% are in partnerships or groups that average not more than three practicing physicians.

4. Most physicians have at least a dozen different managed care contracts in place. These contracts average 15 pages of small print with one or two addenda each. This does not take into account the additional documents many of which are not made available for the physician to review prior to signing the contract, e.g., Provider Manuals and fee schedules.
5. Based on our 2005 survey, 42% of the physicians have not been successful in negotiating changes to the plans contracts (and an additional 15% have not tried to negotiate changes because that view the practice as futile).
6. Often contracts include provisions that negate protections the legislature has provided to physicians through statute, such as, timely payment and limitations on retroactive adjustments. This is done by an exclusion for self-insured plans, i.e., ERISA plans. (The majority of individuals who receive health care insurance through their employers in Colorado are covered by ERISA plans.)
7. Most managed care contracts are “evergreen” meaning they are automatically renewed from one year to the next, and can be changed by the health plan with little or no notice to the physician.
8. These contracts are possibly the only setting in law where one party to the contract can unilaterally change the contract. This bill will require the provider receive notice prior to such changes.
9. Most physicians’ income is controlled by a combination of the federal programs (e.g., Medicare, Medicaid) and private managed care plans. In other words, the vast majority of their income is “fixed” and not directly related to actual overhead expenses.
10. Information the physicians need to make an informed business decision is not included as part of the current health plan contracts. Physicians need information on how the fee schedule is calculated and all of the health plans’ associated payment policies spelled out and in the same place in every contract.

Please Support SB 198