Physicians Cutting Out the Middleman:
How to Contract Directly with Employers & Eliminate Adversarial Managed Care Agreements

A White Paper by A.J. Lester & Associates, Inc.

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ABSTRACT:
PPOs, HMOs, and other managed care "middlemen" control the means by which most physicians do business with employers. As physicians face dwindling reimbursements, greater practice restrictions, and increased pressure to sign adversarial managed care agreements, interest in direct contracting has grown. This white paper introduces direct contracting as an important alternative to commercial managed care agreements; cites the key advantages and process of direct contracting; and offers practical recommendations for helping physician practices successfully negotiate direct physician/employer agreements.

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EXECUTIVE SUMMARY

Cutting out the middleman is an idea as old as business itself, affording the buyer and seller direct access to each other, without the usual costs, interference, or ulterior motives of an intermediary. Yet, when it comes to managed care, commercial HMOs, PPOs, and insurance carriers still control most of the means by which doctors and employers can do business together.

Managed care middlemen dangle their huge memberships in front of physicians, relentlessly pushing adversarial agreements that contain ever-dwindling reimbursements, greater practice restrictions, and little choice but to sign. Meanwhile, these same middlemen entice employers with huge physician networks, relentlessly pushing their PPOs and HMOs as the only means for managed care access to these physicians.

However, in the midst of debate on health care reform and public criticism of the insurance industry, both corporate benefit departments and physicians are finally taking a closer look at cutting out the middleman and doing business directly with each other. For physicians who have accepted the worst choice of having no choice (but to sign middleman agreements), direct contracting represents the chance to regain control over the practice of medicine. For employers facing accelerating health care costs and declining service, direct contracting represents the chance to regain control over health plan expenditures and improve employee satisfaction.

Though largely overlooked, the advantages of direct contracting for physicians and the process for successfully making it happen have been well-proven. The information and insights presented in this White Paper are based upon actual direct contracting conducted by A.J. Lester & Associates over a twenty-one year period on behalf of major self-funded corporations, encompassing direct agreements negotiated with nearly 80,000 physicians across the United States.

DIRECT CONTRACTING'S SIX ADVANTAGES FOR PHYSICIANS

While managed care middlemen certainly don't want physicians to know it, direct contracting offers physicians distinct advantages.

1. Win-Win Agreements

Unlike commercial managed care agreements, replete with dozens of pages of small-font legalese, direct agreements are generally short, readable, and protect both parties' interests. Middlemen never disclose the terms of provider agreements to employers, or the terms of the employer agreements to providers. Direct agreements fully disclose all financial and contractual terms to both parties. Nothing is hidden, so both parties win.

2. Healthier Reimbursements

Direct agreements compensate the physician fairly without compromising potential savings for the employer. Reimbursements can be based upon reduced fixed fees or simple discounted fee arrangements. Because there is no middleman "cut" or monthly network access fees, overall costs are typically lower than commercial networks, so employer-owned networks can actually save claim dollars and reduce plan costs, while still providing higher physician reimbursements.

3. Opportunity to Negotiate Better Terms

Managed Care Organizations (MCOs) develop "best practice" reimbursement schedules with standard pricing based on demographics, specialty, or utilization, from which they allow little deviation. Their inflexibility precludes physicians from negotiating specific reimbursements without negotiating the entire fee schedule or methodology.

Direct agreements inherently use fair reimbursement schedules to be widely approved quickly, without additional modifications. Consequently, employers are more flexible with regard to occasional reimbursement modifications. Physicians who are aware of practice costs and prevailing reimbursements, and who possess percipient negotiating skills, can negotiate better contracts directly with employers than with MCO middlemen.

DIRECT CONTRACTING'S SIX ADVANTAGES FOR PHYSICIANS (Continued)

4. Stronger Employer Support of Network Providers

By owning the network and controlling the health plan, employers can more effectively steer employees to network providers. Direct networks are designed to meet specific employer needs in each network location, so providers can more accurately anticipate patient volume with the employer's complete support. Managed care companies build networks first, then try to fit employers into them, disregarding conflicting employer needs, and creating steerage inconsistencies and service problems.

Commercial managed care agreements include cost-containment and strict administrative requirements. To enhance profitability, networks use restrictive contract requirements to micromanage delivery of medical care. Direct agreements have fewer limitations on what doctors can and cannot do, as long as they use sound medical judgment. That means there is less second-guessing of physicians' treatment decisions.

Ultimately, direct agreements create and sustain the employer's support of physicians' decisions, not the continual questioning of them. For employers and physicians working together under direct contracts, the goal *is* always optimum patient health.

5. Less Staff Time and Resources Spent on Administration

Because there's no middleman's interests to support, direct contracts contain fewer rules, restrictions, and filing requirements than commercial managed care agreements. Consequently, physicians' office staffs spend less time determining what treatments/procedures are covered and whom to call when problems arise. Considering the time most physician offices waste administering multiple, conflicting managed care contracts, replacing commercial agreements with direct agreements means a huge savings of time and money. It also means quicker problem resolution and a closer working relationship with the employer.

6. Welcome Change from Commercial PPO Contracts

Physicians express approval of direct contracting for many reasons, but mostly because direct agreements are not HMO or PPO agreements. Direct contracts straightforwardly establish a beneficial business relationship between physician and employer, making these agreements a welcome and revitalizing change from the complex, contentious, and one-sided contracts often forced upon providers by managed care middlemen.

TEN STEPS FOR SUCCESSFUL DIRECT CONTRACTING

The idea of direct contracting has been so obfuscated by other managed care issues that practice managers, physician management firms, and consultants often overlook its potential in lieu of traditional middleman approaches. But direct agreements should be a vital part every practice's managed care mix. Here are ten steps for successful direct contracting that can be immediately implemented by physicians:

1. Review Current Managed Care Agreements

Physicians should first review their current managed care contracts and decide which ones are financially or administratively disadvantageous. The willingness to cancel, or not renew, detrimental contracts provides important impetus, especially when the self-insured employers represented under those contracts can be approached directly. Employers generally welcome direct agreements with physicians especially when it helps solve service or access problems, or activates managed care benefits for employees who would otherwise have none.

2. Replace Only Disadvantageous "Middleman" Agreements

As attractive as it may seem, it is impractical, for any physician to consider replacing *all* existing managed care agreements with direct contracts. According to the Commonwealth Fund Survey of Physicians'' Experiences with Managed Care conducted by Louis Harris and Associates, 90% of American physicians surveyed have managed care patients, and half of those physicians are contracted with five or more managed care plans. Well-run commercial networks that offer reasonable physician contracts, fair reimbursements, and adequate service. However, direct contracting should always be considered as a replacement for and an alternative to those agreements that are not serving the physicians' best financial or professional interests.

3. Understand the Response of Carriers and MCOs

Though direct contracting is gaining momentum among physicians and employers, insurance carriers and managed care middlemen are often too busy with their own problems or profit motives to pay much attention to direct agreements. Those who do notice tend to oppose it because, as middlemen, the whole concept of direct contracting cuts them out of the picture. Employers and physicians who raise the topic with commercial HMOs, PPOs, or insurance carriers usually encounter resistance to direct contracting or find they're being talked out of it.

TEN STEPS FOR SUCCESSFUL DIRECT CONTRACTING (Continued)

4. Determine Whether Agreements Restrict Direct Contracting

While it is advisable to have all agreements legally reviewed, remember that commercial managed care agreements are written specifically to protect the middleman's interests. As such, they may include terms prohibiting physicians from contracting directly with employers. Physicians should never to sign an agreement containing such a clause. The HMO or PPO *employer* agreement may also prohibit direct contracting, though employers should also be discouraged from signing such agreements. Essentially, employers and physicians must retain the right to contract directly with each other, regardless of other contractual arrangements.

5. Acknowledge Any Potential Conflicts of Interest

There's no reason why a physician, group practice, or IPA shouldn't approach local employers with the offer of a direct contract. But, from a practical standpoint, contacting employers directly may appear as a conflict of interest with other managed care arrangements. Carriers, HMOs, and PPOs may be actively pursuing as a client the same employer with whom the provider is seeking a direct agreement. It's always preferable for the employer to initiate direct contracting through a company representative or experienced direct contracting consultant.

6. Demonstrate Willingness to Contract Directly, Even for Few Employees

The decision to contract shouldn't be based solely on potential patient revenue, but should focus on whether the concept of direct contracting makes business sense. Though the upside may not be huge when few employees are involved, there's virtually no downside to a direct agreement. Even in captive patient markets where doctors will get the patients with or without managed care, the only way employers can offer employees managed care benefits is through a network of contracted physicians. For doctors who disdain commercial managed care, the direct agreement guarantees that the employer won't have to turn to a commercial network to gain managed care access for employees.

TEN STEPS FOR SUCCESSFUL DIRECT CONTRACTING (Continued)

7. Establish Balanced & Reciprocal Contract Terms

While, it's impractical for this White Paper to outline all the necessary contractual terms for a direct agreement, physicians should always look for balance and mutually beneficial financial terms. The best direct contracts are short (five pages or less), concise, and establish a working partnership between the parties. They clearly acknowledge the health of the patient as the ultimate concern of both the employer and physician. A direct "win-win" agreement provides written assurance of the reimbursement, timeframe for payment, and exact terms for the provision of plan benefits and processing of provider claims.

8. Recognize Employer's Decision-Making Process

Sometimes, a local employer may express interest in a direct agreement, yet decisions on such matters may be made at a corporate benefits department located elsewhere. Many employers assume that if an MCO does not already have networks in certain areas, none are available. Where networks are available, the employer may be oblivious to physician dissatisfaction with these networks and their receptiveness to direct contracting. Most corporate benefits executives have no experience with direct contracting and may be unaware that direct contracting is a viable alternative. Physician support of and willingness to participate in direct agreements can bolster this viable alternative to the decisive advantage of both parties.

9. Support & Promote Employer Efforts to Contract Directly

Although the onus may still be on the employer to initiate the process, physicians can do a lot to help local employers understand the value of direct contracting. Through informal means, as well as through personal and professional relationships with key corporate executives, physicians can actively target strategic decision makers at each major employer. Whether it's the CEO, CFO, or VP of Human Resources, physicians can introduce the concept of direct contracting and express their desire to negotiate "win-win" agreements. The employer can then initiate the process without jeopardizing the physicians' position with other MCOs. It is also advisable to refer employers to a qualified direct contracting consultant who can assist in the planning and implementation of the employer networks.

TEN STEPS FOR SUCCESSFUL DIRECT CONTRACTING (Continued)

10. Initiate a Direct Agreement Yourself

Initiating a direct agreement can be as easy as having an attorney or practice management firm draft a simple buyer/seller contract and then approaching local employers with it. The American Medical Association website has an excellent Model Managed Care Contract from which pertinent terms can be drawn for a direct agreement. The AMA also publishes 15 questions to ask before signing a managed care contract

Don't assume that practice management consultants or business managers will know about or suggest direct contracting as an alternative. Physicians may find it necessary to instruct their medical service organizations or consultants to actively seek out direct agreements with local employers. Another way to initiate the direct contracting is to contact the employer's benefit consultants or in-house benefits departments directly and express the desire for a direct agreement. If there is interest on the company's part, it can expend the necessary time and resources to develop a mutually beneficial direct agreement both parties can approve.

CONCLUSION

Direct contracting often seems like a well-kept secret. But it really is a little known and often misunderstood area of opportunity of which more physicians need to be aware. The fact is that commercial HMOs and PPOs are not the *only* way that physicians can gain access to employer-payers and their patients. Physician agreements directly with employers can be negotiated reasonably, at fair terms, and with the greater likelihood of a more stable and advantageous business relationship.

With so many contracts already in place, middlemen will probably always be a big part of the commercial managed care picture. However, physicians can do a lot to balance their managed care involvement and control their own destinies by remaining open and receptive to direct contracting. Being willing to replace disadvantageous middleman agreements with direct contracts, and supporting and encouraging local employers to contract directly is crucial This opportunity will certainly grow as more employers realize that HMOs, PPOs, and other conventional approaches are not the only way to provide managed care access, especially if physicians will readily do business under mutually beneficial direct agreements.

ABOUT THE AUTHOR

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Howard "A.J." Lester is president of A.J. Lester & Associates, Inc., a leading employee benefits consulting firm based in Houston, TX that helps major employers reduce health plan costs by developing directly contracted medical provider networks as an alternative to commercial PPOs. Since 1994, A.J. Lester has developed direct provider networks for well-known national employers, including Perdue Farms, Sysco, U.S. Cellular, and Parker Hannifin. By respecting the needs of medical providers, A.J. Lester has successfully negotiated agreements with nearly 80,000 physicians and over 800 hospitals across the U.S. In the process, A.J. Lester & Associates has helped its clients save tens of millions of dollars on their health benefit programs.

A.J. Lester's unique perspective on direct contracting has also been shared with major hospitals, physician groups, and healthcare systems, helping them create strong and sustainable marketing efforts with employers in their communities. A.J. Lester consults with key healthcare executives on using direct contracting as a key strategy for business development.

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ADDITIONAL RESOURCES

Additional information about direct contracting can be found at www.ajlester.com.

Articles related to direct contracting have also been published over the years in a variety of physician journals and business publications. The following are links to articles of note:

"Some Large Employers Look to Direct Contracting with Doctors", *American Medical Association News*

"Direct Contracting: Seven Advantages of Dealing Directly With Employers", *Managed Care Contracting & Reimbursement Advisor*

"Cutting Out the Middleman: Physicians Can Contract Directly with Employers—A Viable Alternative to Adversarial Managed Care Agreements", *Journal of Medical Practice Management*

"Direct Contracts Cut Medical Costs", *Employee Benefit News Cover Story*

"Home-Grown Network", *Employee Benefit News Cover Story*

"Direct Contracting Helps Rural Employers Wield Clout", *Business Insurance Magazine*

"Direct Provider Networks Seen as Alternative to PPOs, HMOs", *BNA's Benefits & Compensation Management Update*

"As Health Middlemen Thrive, Employers Try to Tame Them", *The Wall Street Journal*

"Firms That Self-Insure Have a New Way to Save on Health Costs", *The Kiplinger Letter*

"Myths About Direct Contracting Limit Use of Insurance Alternative", *Houston Business Journal*