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Health Plans, Providers, and Current Payment Issues

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I. Introduction and General Guidelines

As the cost of health care in this country continues to rise, we are seeing changes to the health care landscape occurring at a rapid speed. These changes include Plan and Provider mergers and acquit ions, as well as payment disputes between health plans and healthcare providers. These payment disputes are often resource intensive and costly for both parties, while creating significant and real impacts on patients and insureds. This paper focuses on the reasons for and the consequences of health plan and provider mergers and acquisitions, some common areas of payment disputes, the reasons for same, overviews current litigation and regulatory developments in those areas, and offers insight from both the plan and provider perspective on how to best minimize or manage disputes, both during, but possibly even more importantly, prior to the dispute arising.

II. Common Sources of Payment Disputes

A. Plan and Provider Mergers and Acquisitions

1. Why?

Health plans and providers of all types are merging and acquiring one another at what seems to be record speed. But why? What both health plans and providers know is that there is only one pie, and each would like the biggest piece it can get. According to The Commonwealth Fund, the United States spends more on health care than even other similarly situated economic countries. Again, but why? Well, Americans pay better for labor and more for goods and services, including pharmaceuticals, which tends to be the major driver of the source of the spend. In-fact, in 2016, the United States spent nearly eighteen percent (18%) of its gross domestic product (GDP). That amounts to $3.4 trillion, and is nearly seven percent (7%) more than other high income countries. As a result, we (health plans, providers, and the general population alike) know we need to do something about this increasing spend. As such, some health plans and providers believe the way to curb this is through mergers and/or acquisitions of one another.

2. Will it Work?

This is definitely an interesting solution, as health plans and providers are seemingly natural born enemies, and certainly make for interesting bedfellows. As a result, the only way these relationships can be successful is if each entity type can look past the past and become forward thinking. For example, if a health plan and a hospital system merge, but the hospital cannot get away from thinking it needs its beds full, and all the health plan wants to do is keep people out of those beds, the likelihood of that merger being successful in reducing the cost of health care is low, because keeping people out of the beds seems counterintuitive to the hospital. But, given the same example, if the health plan and the hospital system both agree to move people out of the beds (only when it is necessary), and build and/or invest in ambulatory surgery centers ("ASC"s) instead, and/or shifting focus to keeping people in their homes as they age through home

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