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Which Agency Regulates Which Type of Health Plan?

Physicians and their billers facing claims payment or other problems that cannot be resolved with the health plan may need to turn to the government regulator for assistance. But how do you know which regulator is the appropriate agency that oversees the type of claim with which you are having a problem?

Step One: Figure Out the Patient's Type of Health Coverage

First, Look at the Member ID Card

1. Commercial Coverage. Most New Yorkers have health coverage through their employer. Determining which agency regulates a commercial health plan has been tricky, although it is about to become easier.

Currently. Patient coverage and health plan contact information is typically contained on the patient's member identification (ID) card. However, the member ID card is not required to specify a key question for determining the appropriate regulator – whether the patient's health plan is a fully-insured or self-insured health plan.

- *A fully-insured plan* is one where the employer and employee pay a monthly premium, and the insurer takes the risk that the costs of benefits will be less than the premium. These are traditional health insurance plans and are regulated by the State – primarily the Department of Financial Services (DFS) with some oversight by the Department of Health (DOH) for health maintenance organizations (HMOs).
- *A self-insured plan* is one where the employer hires a third party (often an insurer) to administer the health plan, but the benefit costs (including physician bills) are the responsibility of the employer. Self-funded plans typically involve large employers and are a majority of the health plans in the market currently. Self-funded plans are generally regulated by the federal government – mostly the US Department of Labor (USDOL).
- **Starting in Fall 2021.** New insurance regulation by the State of New York will require health plans to specify on member ID cards whether the plan is full-insured or self-insured. This regulation for which MSSNY advocated, is effective but applies to all plans renewed or initiated after the effective date, so most cards will contain information beginning for the 2022 policy year.

2. Public Coverage. Public programs such as Medicare and Medicaid are typically identified on the patient's member identification (ID) card. Both Medicare and Medicaid members can be

enrolled in fee-for-service (where the government directly pays the provider for covered services to the patient) or a managed care plan (where the government pays a health plan a monthly premium to cover the patient for required benefits).

If Member ID Card Unclear or Unavailable

1. Commercial Plans. If the member ID card does not specify whether the member is fully-insured or self-insured, you should reach out to the health plan directly to determine the status. Attached is a list of contact information for many major commercial insurers in New York.

2. Public Plans. For fully public programs such as Medicare and Medicaid, you should reach out directly to the relevant agencies to determine enrollment if the patient does not have their member ID card:

- *Medicare.* In the unlikely instance where the patient does not have their Medicare ID card or information, you or the patient can reach out to the federal regulator, the Center for Medicare and Medicaid Services (CMS) and request Medicare enrollment information: 1-800-633-4227
- *Medicaid.* Similarly, you or the patient can reach out to the New York State DOH for Medicaid enrollment information where the member ID card is absent or unclear: 1-800-997-1111

3. Other Publicly Subsidized Programs: Other plans for which a patient may be covered include: Child Health Plus (CHP), the Essential Plan (EP), a Qualified Health Plan for an individual purchase through the state’s health insurance exchange called the “New York State of Health”. Furthermore, coverage could be through a state required insurance such as No-Fault care insurance and Workers Compensation. If the patient does not have a member ID card but indicates s/he is enrolled in one of these plans you should reach out to the enrolled plan, or to the contact information for the coverage specified below.

Step Two: Complain to the Appropriate Agency

1. Commercial. Regulation of private, commercial health plan coverage turns on whether the plan is fully-insured or self-insured (discussed above).

Fully-Insured. is primarily regulated by the New York State Department of Financial Services (DFS), although HMOs are also regulated by the New York State Department of Health (DOH). These plans are administered by DFS-licensed insurers. *The DFS helpline is (800) 342-3736. To file a complaint online against a NYS regulated fully-insured health plan, go to:* <https://www.dfs.ny.gov/complaint>

Self-Insured. As noted above, these are typically employees of larger employer or union members that are in plans that self-insure. Under federal ERISA law, state regulation of these plans is preempted. As such, self-funded plans are under the jurisdiction of the U.S. Department of Labor (USDOL). Claims for unions and self-insured health plans are, in general, processed by

third party administrators, which are often health insurance companies. However, the rules and regulations are that of the union, self-insured/self-funded plan. *Complaints to the USDOL can be made via the provider complaint helpline at (844) 493-1966. To file a complaint online against a USDOL regulated health plan, go to: <https://www.dol.gov/agencies/whd/contact/local-offices>*

2. Workers' Compensation. Coverage through Worker's Compensation is not health insurance as such. Rather, it is program that provides indemnity benefits for medical care needed by ill or injured workers in NYS. This program is regulated by the NYS Workers' Compensation Board (WCB). Physicians must be authorized by the WCB in order to treat injured workers in NYS. Claims for this program are administered by WC carriers authorized by the Board. This program has specific rules for filing complaints dependent upon the issue at hand.

Complaints to the WCB can be made via the provider complaint helpline at (877) 632-4996. To file a complaint online against a WCB regulated insurer, go to: disputedmedicalbills@wcb.ny.gov or WCBMedicalDirectorsOffice@wcb.ny.gov . The general website for WCB is found at www.wcb.ny.gov and the WCB phone number is (877) 632-4996. If you know the name of the injured worker's employer, you can call WCB to find the Workers Compensation insurer for the employer and the worker.

3. No-Fault Auto Insurance. Similar to Workers Compensation, No-Fault Insurance is not health insurance as such. Rather, it is required automobile liability insurance that provides indemnity benefits for medical care needed for persons injured in auto accidents. Claims for this program are administered by various auto insurance carriers licensed to do business in NYS. The patient should identify the auto insurer.

This program is regulated by the NYS Department of Financial Services (DFS). *The DFS helpline is (800) 342-3736. To file a complaint online against a NYS regulated fully-insured health plan, go to: <https://www.dfs.ny.gov/complaint>.*

4. Medicare. As noted above, Medicare patients can receive coverage through both traditional fee-for-service Medicare and Medicare Advantage (Medicare Managed Care) Plans. Both are federal programs and are regulated by the Centers for Medicare and Medicaid Services (CMS).

Fee-for-Service Medicare. Claims for traditional Medicare, Part A Hospital and Part B Professional (medical and surgical services), are administered through federal contracts between CMS and National Government Services (NGS). The NGS general website is located at www.ngsmedicare.com Here, you will be able to find provider enrollment information, fee schedule look up tool and much more educational information. *Complaints to NGS can be made via the provider complaint helpline at (866) 837-0241. To file a complaint online against Medicare, go to:* Information about the NGS Medicare appeals process is located at this link <https://bit.ly/3bLOKTZ>

Medicare Advantage Plans. CMS contracts with Medicare Advantage Plans (also known as Medicare Part C plans) to provide coverage and administer claims for Medicare managed care enrollees. CMS has Regional Offices that serve various areas of the nation. For New York State, the Regional Office is located at Centers for Medicare and Medicaid Services, 26 Federal Plaza, Room 3800, New York, NY 10278. The general phone number for the NY

Regional Office is (212) 616-2229. *Complaints to CMS regional office can be made via the provider complaint helpline at 212-616-2500. To file a complaint online against Medicare, send email to: OPOLE_IFM_NY@cms.hhs.gov*

5. Medicaid. As noted above, Medicaid is primarily regulated by the New York State Department of Health (DOH). Similar to Medicare, there is both traditional, fee-for-service Medicaid where DOH pays claims directly to physicians and other providers, and Medicaid managed care (MMC) plans, where DOH pays premiums for the MMC plans to cover benefits for enrollees.

Medicaid Manage Care. If the patient is in a MMC plan, you can file a complaint with DOH's Office of Health Insurance Programs, Division of Health Plan Contracting and Oversight. *Complaints to DOH can be made via the provider complaint helpline at. 1-800-804-5447 To file a complaint online against a MMC plan, go to:*
https://www.health.ny.gov/health_care/managed_care/complaints/.

Traditional Medicaid. Claims for traditional, fee-for-service Medicaid are administered under contract with the State and Systems Research and Applications Corporation (CSRA), a General Dynamics Information Technology Company (DGIT). *Complaints to DOH or CSRA can be made via the provider complaint helpline at. 1-800-804-5447 To file a complaint online against Medicaid, go to:* https://www.health.ny.gov/health_care/managed_care/complaints/

6. Essential Plan. The Essential Plan (EP) is a creation of the Affordable Care Act (ACA), whereby New York contracts with managed care plans to cover and administer a set of benefits for those above the income limit for Medicaid but at the lower level of income for an ACA Qualified Health Plan (see below). EP is regulated by the New York State Department of Health (DOH).

Complaints to DOH about an EP health plan can be made via the provider complaint helpline at. 1-800-804-5447 To file a complaint online against a EP plan, go to:
https://www.health.ny.gov/health_care/managed_care/complaints/

7. Qualified Health Plan. A Qualified Health Plan (QHP) may be either an individual or small group health plan created under the ACA for which eligible individuals can receive federal advance premium tax credits by enrollment in the New York State of Health (NYSOH), our health insurance exchange marketplace. These plans are regulated by NYSOH, a division of DOH, as well as by DFS.

Complaints to DOH can be made via the provider complaint helpline at. 1-800-804-5447

To file a complaint online against a QHP plan, go to:
https://www.health.ny.gov/health_care/managed_care/complaints/ The DFS helpline is (800) 342-3736. *To file a complaint online against a NYS regulated fully-insured health plan, go to:*
<https://www.dfs.ny.gov/complaint>

8. CHP. The Child Health Plus (CHP) program provides subsidized coverage through DOH contracts with managed care plans. Thus, CHP is regulated by DOH.

Complaints to DOH can be made via the provider complaint helpline at. 1-800-804-5447

To file a complaint online against a QHP plan, go to:

https://www.health.ny.gov/health_care/managed_care/complaints/

Note: All DISPUTES involving claims should first be filed with the specific plan for the insured/patient where applicable.

MSSNY Assistance. If you have questions or concerns, please feel free to contact our MSSNY, Director of Physician Payment & Practice 518.465.8085 ext. 332 or email hlopez@mssny.org