



Private Practice Toolkit

Payor Contract – Sample Contract Language

The payor contract is the basic agreement setting out the obligations of the payor and the physician (or practice). Therefore, it is important to identify terms that are particularly beneficial to physicians or payors. The provisions described here are frequently negotiated and, as reflected below, may be written in a way that favors one party more than the other. Please note that the examples included here are intended as educational content only and may not be appropriate to use in a specific payor agreement without further review or modification. This sample language should not be construed as legal advice; the AMA does not guarantee the enforceability or appropriateness of this language when applied to any particular agreement. Physicians should seek guidance from experienced health care counsel in connection with any use of this sample language.

Eligibility

Favorable to physician:

Payor shall be responsible for identifying and verifying eligibility of Members. Payor shall provide each Member with an identification card. It is the Payor's responsibility to update and maintain eligibility files and systems to ensure that eligibility verification is timely and accurate. Physician may rely on eligibility verifications obtained from a Payor or its designee and Payor shall reimburse Physician in accordance with this Agreement even if a Member is later determined to be ineligible on the date of service.

Favorable to payor:

Physician will verify a Member's eligibility before providing a Covered Service unless the situation involves the provision of an Emergency Service in which case Physician will confirm eligibility in a manner that is consistent with Law on redeterminations of eligibility. Physician will not be reimbursed for any services furnished to a patient who was not an eligible Member on the date of service.

Overpayments and Recoupments

Favorable to physician:

Notwithstanding any other provision of this Agreement, Payor shall issue requests for overpayments to Physician within three hundred sixty-five (365) days from the date of the initial Claim payment or it shall be waived by Payor except in instances of fraud or misrepresentation by Physician. In no event shall Payor offset overpayments against amounts due to Physician without Physician's written consent.

Favorable to payor:

In the event of an overpayment, Payor will issue an overpayment letter requesting repayment of the funds. If the Physician does not

timely dispute or repay the overpayment within sixty (60) days, Payor may collect the amount by offsetting or recouping from any amounts due to the Physician. Physician will promptly notify Payor and applicable governmental agencies of any overpayments identified by Physician. Notwithstanding any other provision of this Agreement, the offset and recoupment rights for an overpayment may be exercised to the time period permitted by Law.

Contract Amendments

Favorable to physician:

Any amendment to this Agreement shall require the mutual written agreement of both Parties.

Favorable to payor:

Payor may amend this Agreement upon forty-five (45) days prior written notice to Physician. The proposed amendment shall take effect unless Physician notifies Payor of its termination of the Agreement within forty-five (45) days of receipt of the notice of amendment.

Physician Manual / Payor Policy Changes

Favorable to physician:

Physician shall comply with the Physician Manual and all applicable policies of Payor in effect as of the Effective Date of the Agreement and as provided to Physician. Payor shall notify Physician at least ninety (90) days in advance of implementing any new policies or making material changes to the Physician Manual. A "material change" shall include, but not be limited to, (i) any changes to or negative impact to reimbursement to Physician; and (ii) any increased operational or administrative burden to Physician. In the event Physician objects to a material change, the change will not take effect as to Physician without the mutual written agreement of the Parties.

Favorable to payor:

Physician shall comply with the Physician Manual and all applicable policies of Payor, any of which may be amended by Payor from time to time at the Payor's sole discretion.

Special Considerations for Value-Based Agreements

Agreements with a value-based component create unique legal considerations. For example, an agreement involving value-based payment may require the physician to contract through a preferred network or submit certain additional data. It may also involve data sharing and payment terms associated with non-fee-for-service models like shared savings. Also, it is important to understand the risk arrangement being discussed as this will impact payment. (upside only? downside risk?) The AMA has made guidance applicable to value-based physician contracts available [here](#).