

The New Age of Managed Care Contracting: Talking with Maria Todd of The Healthcare Business Institute



Dr. Maria Todd has been in healthcare since 1979 and has been the nation's leading managed care trainer and consultant since 1989. She's trained more than 70,000 healthcare professionals via more than 2500 road show seminars presented through McGraw Hill Healthcare Education Group, HFMA, MGMA, Heritage Professional Education and Business Network. Her iconic *Managed Care Contracting Handbook* sold more copies than any other managed care professional handbook in history, and is now in 2nd edition. No other industry professional has contributed more to the art of managed care contracting and managed care professional skills education than Dr. Todd. Manage My Practice recently sat down with her to learn more about "the new age of contracting."

Mary Pat: Maria, you are teaching attendees at your contracting course what is new about payer contracting. What's different in the current environment?

Maria: The managed care contracting scene is radically different under healthcare reform and the PPACA. Anyone who hasn't revisited their contracts in the past few years because they conveniently "rolled over" year to year may find that

they could be shut out of renegotiation, certain networks and other strategic updating that should have been done vigilantly since 2009.

Mary Pat: Do managers still need all the previous skills related to contracting with payers?

Maria: They need even more! For example, they will need to be able to safely configure bundled case rates without overlooking costly inclusions due to vague or ambiguous descriptions and accurately calculate the business opportunities and risks under capitated models.

Mary Pat: Contracting carries a lot of risk. How do you teach people about contract risk?

Maria: By showing them the ambiguities in every day contract language that doesn't look like legalese but can create loopholes for payment bundling, denials, foreclose appeals, and force the physician to refrain from billing.

Mary Pat: Many physicians have told me that there is no real negotiability in payer contracts anymore. I don't believe that is true – what do you think?

Maria: I have always been able to negotiate some changes, perhaps not all that I'd like to. The fact of the matter is that if there is nothing to negotiate, the contract is considered "adhesive" and unfair and the courts can toss it out. Language can also be construed in interpretation against the drafter, if it is ambiguous. Also, the courts are not there to be paternalistic. If you negotiate some and leave others the courts put the onus on the physician

or his/her manager for not finishing the job. You are not entitled to a fair contract unless you negotiate one. The class teaches participants how to spot problems and mitigate them, and provides more insight to defend a reason to say “no thanks, I’ve had enough!”

Mary Pat: You say “Price is not the driver anymore.” What is?

Maria: New trends in contracting level the pricing field. That means that quality and service accountability, as well as adherence to evidence-based care protocols and guidelines will be measured, prescribing habits and patient engagement...only now, they will be contracted performance elements. The whole new ball game of pay for performance is now driven on different metrics. If one doesn’t perform at a base level, one will have to find another ball field.

Mary Pat: Do managers and physicians need the help or review of a lawyer before they sign a payer contract?

Maria: Yes.. but for the right reasons. Too many attorneys are asked to assist on operational reviews. For most attorneys, those without practical experience in health administration and operations, (late entrants into law school after a career in healthcare, for example) the doctors and managers you mention are asking the attorneys to work outside their scope. Attorneys should, for the most part, review for enforceability and compliance, not fee schedules, operational practicability, and procedural matters that are purely at the discretion of the contracting parties to agree.

Mary Pat: In your course you discuss

contracting with ACOs. Can you talk about what practices will need to learn to be able to contract appropriately with ACOs?

Maria: Which ones to align with, first. Second, how to get out if they make a bad decision, and third, what to look for and watch out for along the way. No one wants to miss the ACO with the successful management and operations and shared savings outcomes, and be left with the ACO that doesn't function well, isn't aligned and doesn't make any shared savings bonus at the end of the year.

Mary Pat: Many managers do not know how to handle ERISA (self-funded insurance plans where the employer acts as its own payer) claims. Do you teach skills to deal with ERISA claims?

Maria: I teach 3 ways to deal effectively with this problem. We know practices hear "We're ERISA and we don't have to pay timely or accurately." We teach practices how to get paid faster and more accurately from ERISA payers and teach them exactly what to say to the "ERISA Excuse."

Mary Pat: Do you talk about out-of-network strategies in your course?

Maria: Yes, because there will be times when the right strategy is to say no. Even them physicians and other healthcare providers may be able to attract market share in other ways, some that may even cost less in overhead and hassle factor – like, cash, for instance.

Mary Pat: What is the single most important thing (without giving away any trade secrets from your course!) that you wish managers and physicians would know about contracting?

Maria: How 150 words and phrases we use in everyday language like “shall” and other words like appropriate, adequate, reasonable, material, use best efforts, use reasonable commercial efforts, best, other, indemnify and hold harmless, can make life so miserable for physicians and their managers and collections staff because they didn't realize the implications.



Maria has very graciously agreed to give Manage My Practice readers a 20% discount (**code MMP2013**) on her 3-day managed care contracting workshop which will be offered on August 14, 15 & 16, in Denver, Colorado. The Healthcare Business Institute, a new non-profit training and professional skills development institute in Denver, Colorado will host this hands-on workshop at the Grand Hyatt Denver Downtown. For more information and registration, call 800-209-7263 or register online here.

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