

**[N.J. Admin. Code § 11:24C- 4.3(c)(2).]**

§ 11:24C- 4.3(c)(2). Provider Agreements: Provider Networks

(a) Unless otherwise provided by statute and except as set forth in this section, no agreement between a participating provider and a carrier shall be subject to prior approval by the Commissioner. In the case of HMOs, only the proposed form of provider agreement submitted to the Department with the HMO's initial application for a certificate of authority pursuant to N.J.S.A. 26:2J-3 shall be subject to prior approval by the Commissioner.

(b) For provider agreements for which fees are not individually negotiated, carriers shall make available to network providers and prospective network providers all complete fee schedule(s) that are or are to be included in their agreement. Fee schedules shall be supplied in writing unless the carrier makes the fees for included CPT or HCPCS codes available on their website or otherwise makes them available electronically to providers.

1. When a provider is contemplating participating in multiple health benefits plans offered by a carrier and such plans have different fee schedules, the carrier shall provide the complete proposed fee schedule(s) applicable to that provider for each plan in which the provider participates or plans to participate.

(c) All agreements between carriers and participating providers shall meet the following criteria:

1. All agreements shall disclose in plain language the terms and conditions of the agreement, including, but not limited to, the following:
  - i. Compensation terms, including amount and timing of compensation;
  - ii. If the agreement applies to products with different compensation or other terms, the specifics applicable to each;
  - iii. The term or duration of the agreement;
  - iv. The method(s) by which the contract may be amended, renewed, and terminated;
  - v. The provider's obligation to participate in preauthorization programs;
  - vi. The provider's obligation to maintain liability insurance; and
  - vii. A description of the carrier's internal dispute resolution mechanism.
2. Most favored nation clauses, or clauses having a similar effect, are prohibited.
3. Any agreement that permits unilateral changes shall provide that adverse changes may only be made with sufficient advance notice to permit termination in advance of the effective date of the change.
4. If the terms of an agreement have been the subject of negotiation, no changes shall be made unilaterally to the administration of the contract materially impacting those terms. For example, if rates have been

negotiated, carriers may not unilaterally introduce Multiple Procedure Logic or changes to billing requirements that would result in a material reduction in reimbursement for services affected by the change.

5. A carrier shall not make the terms of a provider agreement available to any third party, including, but not limited to, preferred provider organizations (PPOs), organized delivery systems (ODSs) and such other entities as the carrier may lease networks to, unless:

- i. The agreement specifically states that the carrier may enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity;
- ii. Every third party accessing the provider agreement is contractually obligated to comply with all of its terms;
- iii. The carrier identifies all such third parties in existence as of the date the agreement is entered into;
- iv. The carrier includes on its website a listing, updated no less frequently than every 90 days, identifying all such third parties;
- v. The carrier requires each third party to identify the source of the discount on all remittance advices and/or explanations of payment under which a discount is taken;
- vi. The carrier notifies the third party of the termination of a provider contract upon issuance of the termination by the carrier or upon receipt of notice by the provider;
- vii. The third party ceases its right to a provider's discounted rate upon termination of the provider's contract with the carrier. For purposes of this subsection, "third party" does not include any employer or other group for whom the carrier provides administrative services, including at least the payment of claims; and
- viii. Carriers deliver to participating providers a copy of any agreement relied on in the adjudication of a claim within 30 days after the date of a request from the provider.

(d) Any adverse change or amendment during the term of the agreement may be made in accordance with the terms of the agreement only upon 90 days notice prior to the effective date of the change or amendment. If the provider declines to accept the amendment, the provider may terminate the agreement as set forth in N.J.A.C. 11:24C-4.3(c)3.

(e) Agreements may automatically renew. However, no adverse change may be made to the terms of an agreement upon its automatic renewal. Any such change may be made to the agreement as set forth in (d) above either before or after its renewal.

(f) Carriers shall deliver to participating providers a copy of the fully executed initial agreement and any amendments thereto within 30 days after the effective date of the initial or amended agreement, and within 30 days after the date of a request from the provider for a copy of the agreement and/or amendments.

### Credits

Adopted by R.2013 d.048, effective March 18, 2013 (operative January 1, 2014).