

Unfair and Deceptive Practices by Payers and Intermediaries



HOD P07-26-08-04

The American Physical Therapy Association opposes unfair or deceptive acts or practices by payers and third-party intermediary entities, aka provider networks, preferred provider organizations, "Silent PPOs," repricers, bill review entities, discount brokers, and any other term that describes an entity that is not a payer; third-party administrators to a payer; or a payer's exclusive network (hereinafter "Intermediary" or "Intermediaries") whose primary purpose is to discount providers' claims. Deceptive acts or practices include, but are not limited to:

- Intermediaries using false and misleading promises of consideration to solicit providers into network (discount) agreements, such as promising "steerage" (volume referrals) or prompt payment of claims.
- Intermediaries selling access to the network (discount) agreement to payers who are not explicitly identified in the network agreement at the time the provider entered into the agreement.
- Intermediaries failing to inform network providers through a properly executed notice or contract amendment when proposing to give network access to a new affiliate, customer, beneficiary, or assignee.
- Using a bait-and-switch technique where the intermediary originally solicits an out-of-network provider to accept a "Single Case Discount," then subsequently substitutes a misleading agreement that broadly expands the scope of payers who can claim the discount.
- Intermediaries failing to remove (or ensure removal of) a provider's information, Tax Identification Number, and other identifying information from all databases that the Intermediary has sold its network provider list to when that provider terminates their network agreement.
- Intermediaries and payers claiming indirect access to a provider's network (discount) agreements merely because the provider's name or business name is in a database.
- Intermediaries and payers refusing to provide a copy of the network agreement(s) being used to reprice claims upon the provider challenging the existence or validity of a contract being used to take a discount.

- Intermediaries and payers requiring providers to participate in all networks or none in their network agreements even when the payers are unrelated, resulting in anticompetitive price fixing of providers' reimbursements.

Explanation of Reference Numbers:

HOD P00-00-00-00 stands for House of Delegates/**month**/**year**/**page**/**vote** in the House of Delegates minutes; the "P" indicates that it is a position (see below). For example, HOD P06-17-05-04 means that this position can be found in the June 2017 House of Delegates minutes on Page 5 and that it was Vote 4.

P: Position | S: Standard | G: Guideline | Y: Policy

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