
Third Party Payor and Managed Care Considerations Impacting Health Center Compliance with Statutory, Regulatory, and Policy Requirements: Checklist¹

Provision	Contract Provision
<input type="checkbox"/> Does the contract define terms in a manner that is consistent with, and not contrary to, law, regulation, and policy (i.e., “medical necessity,” “emergency”)?	
<input type="checkbox"/> Taking into account the health center’s enhanced costs of providing health care and related services, are the capitated rates of payment for services to be rendered by the health center (excluding the withhold) adequate to cover the reasonable cost of rendering such services (at a minimum)?	
<input type="checkbox"/> Does the contract state that the payment rates for Medicare or Medicaid managed care services are not less than the level and amount of payment that the managed care organization would make for the services if the services were furnished by a provider which is not a Federally-Qualified Health Center (i.e., payments to the health center are comparable to those paid by the managed care organization to similar providers for similar services)?	
<input type="checkbox"/> Is the scope of services to be delivered by the health center consistent with the required comprehensive primary and preventive health care services currently furnished by the center?	

¹ The Authors of these materials include attorneys at the law firm of Feldesman Tucker Leifer Fidell LLP. The sample documents offer general guidance based on federal law and regulations and do not necessarily apply to all health centers under all facts and circumstances. Further, these materials do not replace, and are not a substitute for, legal advice from qualified legal counsel. This checklist highlights provisions in a managed care contract that the Authors recommend that health centers review to ensure compliance either with legal, regulatory, or policy requirements (listed as required) or with good practice (listed as recommended).

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<input type="checkbox"/> Does the contract clearly and explicitly state the applicable standards of care?	
<input type="checkbox"/> Does the contract include provisions ensuring that the health center is not:	
<input type="checkbox"/> Obligated to comply with standards that are inconsistent with those required under federal and state laws and other professional standards, as well as the current standards practiced by the health center?	
<input type="checkbox"/> Exposed to a higher standard of care than that which is normally required or standards with which the health center is unfamiliar?	
<input type="checkbox"/> Given the health center's legal obligation to collaborate and coordinate with local providers, as appropriate, does the contract state that:	
<input type="checkbox"/> Consistent with applicable law, regulation, and policy, the contract does not preclude the health center from contracting with such other providers (i.e., non-exclusivity) if doing so would jeopardize the health center's ability to ensure collaboration as required by law?	
<input type="checkbox"/> Specific coordination requirements will be determined and furnished by the health center?	
<input type="checkbox"/> Given the health center's legal obligation to provide services to all patients residing in its service area, regardless of their ability to pay, does the health center have the ability to:	

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<input type="checkbox"/> Limit or reduce the number of individuals enrolled with the health center pursuant to the contract?	
<input type="checkbox"/> Reject additional enrollees if the health center has reached its capacity to furnish comprehensive services?	
<input type="checkbox"/> Waive or reduce cost-sharing obligations if necessary in order not to deny services (either in accordance with sliding fee scale obligations or based on individualized determinations of financial need)?	
<input type="checkbox"/> Considering the numerous statutory, regulatory, and policy requirements governing the health center:	
<input type="checkbox"/> Are the policies, protocols, procedures, and criteria (e.g., quality assurance programs; patient grievance procedures) established by the managed care organization no more extensive than, and not inconsistent with, those already established by the health center?	
<input type="checkbox"/> Does the health center have the right to review and comment on the managed care organization's policies, protocols, procedures, and criteria prior to their implementation?	
<input type="checkbox"/> Does the health center have the right to terminate the managed care contract if the policies, procedures, and criteria are inconsistent with the health center's legal and policy-related requirements?	

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<input type="checkbox"/> Does the contract clearly state that, in lieu of professional malpractice insurance for the health center and its employees and contractors, the managed care organization will accept the health center's Federal Tort Claims Act coverage (if it is deemed by the Health Resources and Services Administration as FTCA-covered)? ²	
<input type="checkbox"/> Does the contract specify procedures to submit reports, records, and data to the managed care organization that are consistent with applicable federal and state confidentiality and privacy laws?	
<input type="checkbox"/> Does the contract contain marketing restrictions that would prohibit the health center from performing required outreach, education, and health promotion activities?	
<input type="checkbox"/> Does the contract require licensure or credentialing standards that conflict with the standards / obligations required under law and regulation (<u>i.e.</u> , Medicare standards) or that are inconsistent with standards set forth by appropriate credentialing / accreditation organizations (<u>e.g.</u> , the Joint Commission)?	
<input type="checkbox"/> Given the health center's obligation to maximize revenues, does the contract include a termination clause that affords the health center the right to terminate performance if there are unreasonable payment delays (<u>i.e.</u> , more than 3 months) or a pattern of untimely payments to the health center due under the contract?	

² NOTE: FTCA does not cover indemnification of third parties; accordingly, the health center should not agree to indemnify the managed care organization or, if it does, the health center should obtain adequate insurance to cover indemnification exposure.

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<input type="checkbox"/> Does the contract permit the health center to terminate if the terms of the contract conflict with the terms of the health center’s federal or state grant awards, or hinder the likelihood of renewal of such awards?	
<input type="checkbox"/> Are post termination obligations consistent with applicable state law regarding continuation of care duties?	
<input type="checkbox"/> Is the health center’s financial risk associated with post-termination obligations addressed through appropriate post-termination payment terms (e.g., fee-for-service payments)?	
<input type="checkbox"/> If the contract contains a “non-compete” clause, are the terms consistent with state law and prevailing standards?	
<input type="checkbox"/> Do the terms of the non-compete clause permit the health center to continue serving individuals or families residing in the health center’s service area, if those persons choose to receive services from the health center?	
<input type="checkbox"/> Does the contract provide that the law of the health center’s state governs contract interpretation?	
<input type="checkbox"/> Does the contract provide that the health center’s state court would be the venue for litigation between the parties?	
<input type="checkbox"/> Does the contract clearly state the patient cost-sharing amounts?	
<input type="checkbox"/> Are such cost-sharing amounts reasonable for collection from patients?	
<input type="checkbox"/> Is the health plan required to obtain the health center’s approval before altering patient cost-sharing amounts?	

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<input type="checkbox"/> Are health plan payments for health services clearly distinguished from any financial incentive payments?	