

BULLETIN 95-4

TO: Health Care Providers

FROM: Utah State Insurance Department

DATED: November 3, 1995

SUBJECT: Provider Compensation and Reimbursement Arrangements

This bulletin sets out the position of the Commissioner regarding certain types of compensation and reimbursement arrangements between health care providers (e.g., doctors, hospitals, networks and others) and individuals, employers and other groups. It is the Commissioner's goal to see that consumers have the solvency and consumer protections afforded by the insurance laws.

If a health care provider enters into an arrangement with an individual, employer or other group that results in the provider assuming all or part of the risk for health care expenses or service delivery, the provider is engaged in the business of insurance. Providers wishing to engage in the business of insurance must obtain the appropriate license certificate of authority (e.g., health insurer, HMO, etc.) from the Utah Insurance Department.

For example, if a group of doctors or a hospital enters into an arrangement with an employer to provide future health care services to its employees for a fixed prepayment (i.e., full or partial capitation) the doctors or hospital are engaged in the business of insurance. Examples of other arrangements that may be the business of insurance include risk corridors, withhold or pooling arrangements. The only arrangement where a provider need not obtain a license from the insurance department is when the provider agrees to assume all or part of the risk for health care expenses or service delivery under a contract with a duly licensed health insurer, for that insurer's policyholders, certificate holders or enrollees. An example of this is when a group of doctors or a hospital enters into an arrangement with an HMO to provide services to the HMO's enrollees in exchange for a fixed prepayment.

The Department of Insurance invites health care providers who have entered into an arrangement, or who are considering doing so, to ask for clarification if they are uncertain whether the arrangement violates state law. The Department will be pleased to work with providers to bring any arrangements into compliance with state insurance law or other laws applicable to health carriers.

DATED this 3rd day of November, 1995.

Insurance Commissioner

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