Publications

# Eleventh Circuit Rejects Plan's Interpretation on Provider Discounts

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**SERVICES**

On February 2, 2001, the U.S. Court of Appeals for the Eleventh Circuit affirmed a lower court's decision to grant summary judgment to a health care provider who challenged a discount claimed by an insurer as a violation of the terms of an employee health plan. HCA Health Services of Georgia, Inc. v. Employers Health Insurance Company, 2001 WL 91380 (11th Cir. 2001).

Parkway Medical Center, a hospital, provided treatment to a participant of an employer-sponsored medical plan that assured participants in the employer's plan that they would receive a financial advantage from seeking treatment from health care providers who were members of an identified PPO. Charges from in-network providers were reimbursed on a 90/10 copayment ratio. Charges from out-of-network providers were reimbursed on a 80/20 copayment ratio. Under the employer plan in question, the "maximum allowable charge" against which these copayment ratios would be applied was defined as the lesser of five different benchmarks. The benchmarks included the following:

(1) The fee most often charged in the geographical area where the Service was performed; (2) The fee most often charged by the provider; (3) The fee which is recognized by a prudent person; (4) The fee determined by comparing charges for similar Services to a national data base or (5) The fee determined by using a national Relative Value Scale . . . .

The employer plan in question did not clearly state that the plan would not pay more for a service than the provider had agreed to accept as payment in full under a contractual arrangement that extended, directly or indirectly, to the plan. Instead, EHI, as administrator of the plan, argued that the plan's general language defining the Maximum Allowable Charge as "the fee which is recognized by a prudent person" (the third benchmark noted above) should be interpreted to limit payment to the contract charge. EHI argued that this language meant that the plan did not authorize a payment in excess of any contractual discount that any provider had agreed to accept, because no "prudent person" would pay more than an existing contract required.

The Eleventh Circuit rejected this interpretation of the plan language based on a series of Eleventh Circuit decisional rules that encourage courts within the Circuit to reject plan interpretations that are "favorable" to administrators who have a financial interest in the outcome of a particular benefit claim. Thus, if an insurance company has direct

financial exposure for the payment of health claims, an Eleventh Circuit court will assume that the insurance company's interpretation of the plan's terms is tainted by self-interest, and should examine the questioned language to determine whether an alternative interpretation might be more beneficial to the plan participants as a whole. If the court finds an interpretation that is better for participants, it will reject the insurance company's interpretation as unreasonable.

In this case, the court concluded that the plan's provision limiting payment to "the fee which is recognized by a prudent person" could not mean the fee that a provider agreed, by contract, to accept, but instead referred to the provider's "usual, reasonable and customary" charge. The court rejected the insurance's company's interpretation by saying that "we disagree that the discounted fee is the fee recognized by a prudent person. Common sense dictates that the fee recognized by a prudent person is the usual and customary fee in the industry." The court seems to have been completely unmindful of the import of the other four limitations built into the Maximum Allowable Fee definition, each of which describe aspects of the "usual, reasonable and customary" standard that represents the industry's common understanding of that term.

EHI has filed a petition for rehearing en banc. Statements in support of EHI's petition were filed by the American Association of Health Plans and the Health Insurance Association of America.