Negotiating Third-Party Payer Contracts: Key Factors for Success

Negotiating with Today’s Payers Requires 5 Key Factors:

- **PREPARATION**: Understand and rank your interests and the payer’s interests. Develop Options, Standards, Alternatives, and Proposals…before negotiations begin

- **STRATEGY**: Break through their resistance by continually re-directing to: Interests, standards, legitimacy – and joint problem-solving

- **COMMUNICATION**: Separate the people from the problem. Don’t focus on positions – maintain the focus on joint interests & problem-solving

- **LEGITIMACY**: Sources of justification and fairness (market practice, industry norms, economic criteria or standards)

- **RESOLVE**: Resolve powers the decisions and actions necessary to hold the line against powerful payers …and the strategies they employ
Negotiating with Today’s Payers:

We negotiate to produce better results than we can obtain without negotiating.

Preparation

Preparation is EVERYTHING

DO YOUR HOMEWORK!

Once you are well-prepared, strategy will suggest itself

A clever strategy cannot make up for lack of preparation

Negotiating with Today’s Payers:

Preparation:

Ground rules for negotiation:
Before contract negotiations begin, consider establishing ‘ground rules’ each party agrees to live by during the negotiation

The negotiation about the negotiation:
How you and your opponent agree to behave during the negotiation of rates and terms
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Preparation:

Does the Hospital have Contracting Requirements …. and/or Standard Language?

- Your Standard Language and Contracting Requirements describe the operating and business rules acceptable to the Hospital…and those that aren’t

- Many hospitals do not have either, forcing them to react to the payer’s proposed language

- Come to the table with the Hospital’s Contracting Requirements and Standard Language – even if you don’t make the first offer. It puts you in an offensive – not defensive = position

Examples

Hospital’s Contractual Requirements include:

- All participating providers of Hospitals, active and courtesy medical staff, shall be included in the contract unless reasonable documented concerns exist

- Hospital-based Providers must retain the right to opt out of the contract. The Hospital shall not be penalized if hospital-based providers choose to opt out of network

- The offering party must sign Hospital’s mutual confidentiality agreement prior to discussions

- The offering party must include language in its contract to prevent ‘silent PPO’ activity or uncontrolled discount access by payers other than those listed in the contract
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Examples, continued…

• The executed contract may not be assigned without the prior written consent of both parties

• The offering party must include language in its contract which requires any changes to the contract be made only by mutual written consent

• The offering party must include language in its contract allowing Hospital to terminate the agreement without cause upon at least one hundred twenty (120) days prior written notice to Payer

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Communication

• Will vary depending on the parties negotiating styles…. and on the balance of power between the parties.

• Keep the focus on joint interests and problem-solving. Not on positions.

• Is communication open, respectful, and truthful?

• Is the payer using intimidation tactics?

This is business….don’t make it personal!
TACTICS:
Recognize Tricks and Tactics

Recognize what they are doing. Name it.

Note your reaction ... Take a time out ... Re-balance...

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TACTICS:
Recognize Tricks and Tactics

Intimidation and Deception Tactics:

- Take it or Leave it
- Deadlines
- Presenting a final Agreement at the start of a negotiation
- ‘Final Offer’ declarations
TACTICS:

Intimidation and Deception Tactics:

- Out of Network Threats
- Good guy / Bad guy
- Others

TACTICS:
Neutralize and Respond

Recognize the tactic. Note your reaction. PAUSE.

This is business….Don’t make it personal!

Three methods to Neutralize and Reframe Tactics:
- Ignore
- Re-interpret
- Go around

Keep re-directing the conversation back to both parties needs & interests.
EFFECTIVE Tactics and Methods:

• Ask questions…Don’t make statements (Statements generate resistance….questions generate information and buy time)

• Play dumb. Or at least a little naïve. A great way to learn more about their interests, methods, and to clarify their intent

• Silence is your loudest response

• Consider making the first offer.. (anchoring)

• Ask for their alternative language – don’t give them yours

• A good negotiator rarely makes a decision ‘on the spot’ (“Let us give that some thought….”, or “We will give that some consideration and get back with you”)

• Others…

Remember:

• No price is EVER fixed. EVER

• Clarify. And again. And again

• Keep it in writing

• Use your poker face

• Don’t bargain over positions

• Pause before responding

• Never, ever start at or near your real position!

   Today’s payer negotiations are a marathon….not a sprint
Negotiating Fun Facts:

• On average, in any negotiation, five to six rounds of proposals are exchanged

• The longer a negotiation continues, the better the outcome for the party with the least obvious power

• Others
Bibliography

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Getting Past No – William Ury
The Art of War – Sun Tzu
Developing a Medicare Advantage Strategy and Avoiding the Pitfalls - Maria Todd
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