The downside of managed care

BY PETE KOTZ

As insurers move to control costs, they may also be exposing themselves to greater malpractice liability.

It's an unenviable position, that of managed health insurers. On one hand consumers want costs tamed. On the other, they don't want cut-rate care.

This year, some 400 bills nationwide have been introduced to place restrictions on managed care, according to the American Association of Health Plans. That's four times the number advanced just two years ago.

With stories of gag rules on physcians and plans limiting maternity stays to 24 hours, the debate is as much about emotion as it is medicine and economics.

Couple this with intense competition and a rapidly changing market, and one finds the inevitable problems of a growth industry.

According to Bob Mrizek, vice president and counsel for Principal Health Care, the goal of managed care is to safeguard quality, while avoiding excessive treatment.

But it's precisely the scrutiny of costs that may expose insurers to greater malpractice liability.

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"I see it as frightening," says Galligan, who, by his own estimate, handles more medical malpractice cases than any other lawyer in Iowa. "I have seen examples in which there have been refusals to admit patients to hospitals, even against a doctor's recommendations. In fairness, probably 90 percent of those bureaucrats are trying to find good care. But 10 percent are going to think about costs first."

Galligan says the most common horror story is the patient who appears in the emergency room with chest pain. Based on his medical profile, the doctor believes he should be admitted, even though test results are normal. The insurer refuses, believing it's indigestion. Later that day the patient dies from a heart attack.

"The bureaucrat believes the chances are one in 20, so he won't admit," Galligan says. "Well, that's fine if you're one of the 19. Who should be held responsible? I believe the bureaucrat."

That appears to be the emerging trend in malpractice litigation, particularly on the West Coast.

Insurer-physician contracts are increasingly coming under fire. Some contracts – called capitation agreements – pay doctors a prearranged fee for a set

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number of patients. "Under that arrangement," Waterloo attorney Dan Holm says, "they develop a conflict of interest, because their compensation becomes pegged to how little they do, as opposed to how much they do. Obviously, the less that's done, the more the profit margin for the physician."

Both lawyers say other provisions reward doctors for reducing testing and referrals to specialists.

But if bringing insurers into malpractice suits is a growing trend on the coasts, it has yet to make a significant appearance in Iowa.

"We have not experienced an increase in liability to date," reads a prepared statement from Blue Cross and Blue Shield of Iowa. However, spokeswoman Anne Hong says capitation agreements are included in only one of the company's plans, Unity Choice, "and only 19 percent of provider services are capitated."

Though Principal has yet to witness an increase in litigation, it's only a matter of time. "We can potentially expect to be named more and more in malpractice litigation," Mrizek says.

Yet Mrizek objects to the conclusion that managed care lessens quality. He notes that under conventional fee-for-service plans, insurers paid claims with little inquiry on quality. He argues that while managed care provides greater scrutiny of costs, it also takes a far more active role in ensuring quality.

But, he adds, "Our primary view is medical decisions have to be made the medical provider." ■