

Any Willing Provider Legislation

The Academy of Managed Care Pharmacy (AMCP) opposes any willing provider/pharmacy legislation. AMCP supports the ability of managed care organizations to selectively contract with only those providers necessary to enable the organization to provide plan participants with adequate access to pharmacy services, and quality, cost-effective health care. Managed health care systems¹ build networks of health care providers who demonstrate they can deliver high-quality, affordable health services to plan participants enrolled in the plan. By selectively contracting with providers, managed care organizations assure that plan participants can receive the best care, have adequate access to the providers they need, and reduce the likelihood that valuable health care resources will be wasted through inappropriate use.

Any willing provider legislation, by contrast, would require managed care organizations to contract with any provider who agrees to meet the terms and conditions of the organization, whether or not it can be shown that the provider meets both the quality standards, and the geographic access needs of the health plan. Proponents argue that these mandates assure that plan participants can choose among providers for receiving their health services. However, health care plans must compete against each other for plan participants, whether through employer-sponsored programs, the individual market, or exchanges and this competition motivates health plans to provide access to a broad number of health care providers. In fact, many purchasers select a health plan based on its ability to provide broad access for all plan participants by having provider networks in place across many geographic areas.

AMCP also believes that plan participants are able to exercise freedom of choice without any willing provider mandates. Managed care plans go to great lengths to assure they have enough qualified providers in their networks so patients have adequate access to needed medical services. Before or while enrolling, prospective plan participants can verify provider participation in a specific plan by utilizing online resources, thereby making an informed decision. If a plan participant has not developed a provider relationship, they can then choose from among a broad array of individual providers within the plan's network. Plan participants often have additional choices if their employer allows them to choose to enroll among a variety of health plans, such as Health Maintenance Organizations (HMOs), Preferred Provider Organizations (PPOs), Point-of-Service (POS) options, or traditional indemnity plans.

Additionally, AMCP opposes any willing provider laws on the following grounds:

- **Any willing provider laws result in increased costs to the health system.** For example, some health plans achieve economies of scale by owning or operating their own in-house pharmacies, opting not to contract with outside pharmacies.

Other health plans achieve cost-savings by selectively contracting with certain pharmacies, offering increased volume of business in exchange for reductions in pharmacy charges. Health plans also minimize administrative costs by maintaining a select pharmacy network. Any willing provider laws, therefore, would undermine the ability of managed care plans to achieve these savings, and pass those savings onto purchasers and plan participants. A recent economic analysis of states with any willing provider requirements for pharmacies found that there is an association between any willing provider laws and an increase in both overall per-patient health expenditures and an increase in per-patient pharmaceutical spending.²

- **Any willing provider laws that do not require the pharmacy to meet the terms and conditions of the health plan’s contract undermine managed care’s ability to control the quality of clinical services provided to its plan participants.** Managed care organizations rely on utilization review and other quality assurance programs to ensure that patients receive high-quality, cost-effective care. Such programs are effective only if managed care can selectively contract with those providers who satisfy the plan’s quality requirements, and whose performance can be regularly monitored by the plan.
- **Any willing provider laws could potentially increase the likelihood of prescription drug fraud.** Prescription drug fraud may take several forms, including the distribution of counterfeit drugs and patients presenting forged prescriptions to legitimate pharmacies. Another disturbing trend is the practice of opening a pharmacy that is fraudulent itself. In this scenario, the pharmacy owners are able to bill payers for phantom prescriptions that are never filled, accept payment and then close their doors before they are audited. Because they would not be able to exclude any pharmacy from their network, any willing provider laws could make it difficult, if not impossible, for a managed care organization to not include a pharmacy suspected of fraud in their network. A plausible link between any willing provider regulations and increased fraud has been acknowledged by the Government Accountability Office (GAO), which has suggested that allowing the Medicare program to establish a preferred provider network and to negotiate with select providers would be acceptable strategies to help curb fraud, waste and abuse in the program.³
- **Any willing provider laws undermine competition in the marketplace.** The Federal Trade Commission has held that any willing provider laws discourage competition in the health care marketplace for both pharmaceutical services and managed care programs, restricting plan participant access to affordable health care, and limiting plan participant choice to enroll in the health benefit program that best suits their needs. AMCP agrees with this position. AMCP believes that competitive market forces dictate that prepaid health plans make sure they have sufficient numbers of providers in their networks to provide adequate access to health care services to their plan participants.

Please see AMCP's website for revisions and updates to our *Where We Stand* series:
www.amcp.org/positionstatements.

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¹ C. Durrance, The Impact of Pharmacy-Specific Any-Willing-Provider Legislation on Prescription Drug Expenditures, *Atl Econ J*, 2009; 37: 409-423.

² Ibid.

³ GAO, *Medicare: Modern Management Strategies Could Curb Fraud, Waste and Abuse* (GAO/T-HEHS-95-227, July 31, 1995), available online at <http://archive.gao.gov/t2pbat1/154851.pdf>.