



## ADVISORY NO. 483

### TOPIC: DIVISION INVESTIGATING VOLUNTARY AND INFORMAL NETWORK VIOLATIONS

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The Texas legislature abolished all voluntary or informal networks except for the provision of pharmaceuticals through pharmacy benefit managers, effective January 1, 2011. See §413.0115 of the Texas Labor Code and Division Rules 133.4 and 133.5. Thus, except for PBMs, a carrier may not make a medical benefit payment below the *Medical Fee Guidelines*, unless the claim is a part of a certified health care network.

Flahive, Ogden & Latson has learned that the Division is currently conducting an investigation into whether some system participants may have entered into post-January 1, 2011 contracts with non-pharmacy benefit vendors that may constitute voluntary or informal networks.

Specifically, our firm has learned that the Division has requested that some system participants produce documentation in conjunction with a complaint that it has received against an entity that allegedly sought to enter into contractual fee relationships with a number of carriers and physical therapy companies.

Reportedly, the company under investigation sought to convince some physical therapy providers to discount their services below the *Medical Fee Guidelines*. The company then allegedly sought to contract with various carriers or third party administrators to facilitate payment for physical therapy services at a rate that was less than the *Medical Fee Guidelines*. According to the Division, in some cases, the carriers were paying for services at a rate less than the *Medical Fee Guidelines*. In other cases, according to the Division, carriers were promised a refund from the vendor.

The Division's current investigation is to ensure that entities are not engaging in voluntary or informal networks in the provision of physical therapy services.

Carriers, third party administrators, and other system participants may not contract to compensate health care providers for non-pharmacy benefits at rates below the *Medical Fee Guidelines* in the absence of a certified health care network contract. Carriers should ensure that their key staff members, third party administrators, and medical bill processing vendors are

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aware of the consequences of entering into such agreements and should take steps to prevent the entry into any such contractual relationships.

If you have questions concerning any aspect of this advisory, please contact James Sheffield or Bobby Stokes.