



## Health Insurance and ERISA

The healthcare industry has been experiencing enormous upheaval for several years. With the passing of the Affordable Care Act, and its uncertain future, the healthcare system had been under extreme pressure to change, with the ripple effect foisting untold duress upon health insurers, plan administrators, employers and providers. Our group has the experience to help clients navigate through this healthcare minefield.

Recent changes in the law, as well as decisions by State and Federal courts, are shifting the way healthcare is being delivered and paid for, which exposes payers to liability, while eroding existing protections. We have extensive experience in representing and counseling health insurers in the establishment of new healthcare networks, out-of-coverage disputes, antitrust claims, Medicare and Medicaid fraud and abuse and compliance under ERISA and other Federal regulations.

We have extensive experience representing and counseling in various areas of healthcare law, including:

- Establishment of new healthcare networks
- Out-of-network coverage disputes
- Healthcare network contractual disputes
- Provider litigation
- Benefit entitlement
- Compliance Issues under ERISA, PPACA, fraud and abuse laws and pertinent regulations
- Healthcare antitrust claims
- Fraud
- Medicare and Medicaid fraud and abuse
- RICO
- HIPAA analysis and implementation
- Coverage issues
- Counseling third-party administrators
- Bad faith

### Practice Contacts

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- Breach of fiduciary duty
- Plan interpretation

### **Representative Matters**

- Assisted employer in drafting amendments to its self-insured health plan
- Obtained a published opinion from the New Jersey Appellate Division granting a protective order in a matter wherein several hospitals were seeking intrusive discovery concerning the creation and implementation of a health plan. (*Capital Health System Inc., v. Horizon Healthcare Services Inc.*, NJ App. Div. A-2913-15 (June 23, 2016))
- Defeated several preliminary injunctions by hospitals to halt the implementation of a tiered health plan
- Defended against claims that a health insurer breached the Hospital Network Agreement
- Defended against claims that a health insurer breached its fiduciary duty, violated the New Jersey consumer fraud act, breached its covenant of good faith and fair dealing, defamed the provider hospitals and interfered with the hospital's economic advantage
- Obtained a dismissal of claims brought by the Association of New Jersey Chiropractors alleging that a health coverage plan creates unfair business advantage against them
- Obtained emergent appellate stay, and later the complete reversal on interlocutory appeal, of two discovery orders from two different courts that required a health insurer to provide in discovery confidential, competitive, and proprietary business information to various hospitals upset with their tier designation in the insurer's health plan
- Counseled employer in its role as plan sponsor of certain self-insured ERISA health and welfare benefit plans, including responding to actions by bankruptcy trustees for hospitals seeking to collect accounts receivable from plan sponsors and third-party administrators of ERISA plans and assisting company in responding to health benefit plan appeals by healthcare providers challenging the coverage determinations and benefit payments under such ERISA plans

### **Publications**

Supreme Court Agrees to Hear Additional Challenge to the Affordable Care Act  
*Life, Health, Disability and ERISA Alert* | August 28, 2020