

Health Care Industry Insurance Coverage Experience



K&L Gates' preeminent health care and insurance coverage practice groups collaborate to address the complex insurance and reimbursement needs of their diverse health care industry clients. K&L Gates represents a wide range of health care providers, including hospitals and health care systems, medical research institutions, physician groups, diagnostic testing labs, pharmacies, clinical trial sponsors, and ambulatory surgery centers, among many others.

The firm's lawyers have represented health care providers in connection with a wide variety of insurance and reimbursement matters, many of which involved maximizing our clients' recovery on contested claims for insurance coverage and/or reimbursement, and defending clients against claims brought by health care insurers. In addition to traditional coverage matters affecting the health care industry, such as bad faith, professional liability, personal injury, product liability, directors and officers liability, first-party property losses, employment practices liability, and statutory and common law fraud claims, K&L Gates lawyers also have experience handling general health care-related claims, including defamation and deceptive trade practice disputes, nonpayment, overpayment and underpayment of claims, and breach-of-contract disputes. Our clients' interests are often best served by negotiating directly with insurers and avoiding litigation or formal dispute resolution, if possible. In some instances, however, such claims can only be resolved favorably through litigation or other adversary proceedings. K&L Gates' lawyers have significant experience in advising clients on claims for insurance recovery, including out-of-network billing disputes and defending health insurer claims of insurance fraud, and in representing those clients in pursuit of such recoveries in formal proceedings.

REPRESENTATIVE EXPERIENCE:

- Successfully defended a hospital client against insurance fraud claims brought by the fourth-largest health insurer in the United States, and prosecuted counterclaims against the insurer for substantial underpayments (out-of-network charges for medical services).
- Won a major insurance fraud case on behalf of a hospital client against New Jersey's largest health insurer.
- Prosecuted claims on behalf of out-of-network hospitals and hospital systems under Employee Retirement Income Security Act of 1974 and state law against insurers for substantial underpayments on medical reimbursement claims.
- Provide ongoing counseling to for-profit and not-for-profit hospital systems in navigating the transition from in-network to out-of-network provider status with respect to New Jersey health insurers.

- Represented leading national group of hospitals in securing recoveries under errors and omissions (“E&O”) policies on contested and very substantial insurance claims arising out of medical malpractice and related liabilities.
- Represented numerous hospitals, medical practices, clinical laboratories, durable medical equipment suppliers, home health agencies, physicians, and other health care providers during post-payment audits by Medicare, Medicaid, and private insurers.
- Represented a pharmaceutical company in the coordination of coverage for underlying asbestos liabilities.
- Represented a multinational pharmaceutical company in a recovery under a cargo loss policy following a plane crash at Newark Liberty International Airport.
- Represented a multinational pharmaceutical company in its dispute under outside counsel guidelines involving defense counsel fees.
- Represented a tertiary care hospital system in potential litigation against a health care program for chronic underpayments, which totaled over \$4 million.
- Assisted a hospital in binding arbitration against its insurer for breach of contract and bad faith relating to the failure of the insurer to pay rates in accordance with an existing agreement.
- Represented a specialty physician network in potential litigation against a health maintenance organization (“HMO”) where the HMO unilaterally had withheld payments based on the HMO’s failure to meet its own cost targets, and the HMO had led the Federal Trade Commission to investigate erroneous antitrust allegations.
- Defended a hospital in an action brought by a managed care company seeking recoupment of \$3 million in alleged overpayments.
- Represented hospital-based physician practices in reimbursement disputes with commercial payers where payers failed to pay usual and customary rates or refused to reimburse certain categories of fees.
- Represented a major nonprofit health care system that was seeking coverage for the costs of defending a purported class action lawsuit seeking damages for alleged Racketeer Influenced and Corrupt Organization Act violations and unfair competition, allegedly caused by the system’s manipulation of costs and charges to increase its recovery from the Medicare outlier pool at the expense of other institutions.
- Represented a leading diagnostics testing services provider in litigation in the U.S. District Court for the Eastern District of Louisiana seeking damages and bad-faith penalties from the client’s property insurer as a result of the insurer’s failure to fully reimburse our client for the property damage, extra expense, business interruption, and contingent business interruption losses it sustained because of the damage that Hurricane Katrina caused to its own laboratory facilities, as well as the damage to its New Orleans-area customers and suppliers.
- Represented a hospital in a coverage case that was subject to a qui tam suit for alleged fraud in Medicare reimbursement. K&L Gates obtained a favorable settlement on indemnity and secured reimbursement of most defense costs.

- Obtained \$18 million in judgments against state HMO guaranty association on behalf of five hospitals following the insolvency of an HMO.
- Initiated and settled cases against two major commercial payers following the insolvency of independent practice associations within the payers' provider networks.
- Representing a hospital in multimillion-dollar suit against commercial payer for nonpayment and underpayment of claims.
- Successfully defended a hospital in suit by a commercial payer to enjoin termination of a preferred provider organization agreement.
- Representing hospitals in suit against a third-party administrator of hospital services agreements for wrongfully redirecting patient referrals to other providers.
- Defended hospitals in proceedings for recoupment of alleged Medicaid overpayments based on state audits of emergency department services.
- Entered into an innovative alternative fee arrangement with one of the country's largest owners of hospitals to review and advise regarding a spectrum of insurance programs including, but not limited to, directors and officers, E&O, cyber risk, property, aviation, environmental liability, automobile, crime, employer's liability, workers' compensation, and terrorism.
- Advised health care providers in potential litigation against a managed care company for unilateral adjustment of reimbursement rates without notice to providers and worked with state department of insurance to monitor future compliance with contract terms.
- Advised clinical trial sponsors on insurance coverages and limits for themselves and for sites with which they contract.
- Advised hospitals in the United States and internationally on insurance coverage spanning the hospital and its staff physicians serving as investigators for clinical trials.
- Advised physicians and clinics on exposure to risk and their needs relative to medical malpractice coverage that is not coextensive with clinical trial coverage.
- Provide day-to-day counseling to health care systems seeking to navigate the transition to out-of-network provider status with health insurers.
- Advised a client in connection with Medicare and Medicaid reimbursement and refund issues, certificate of need application decisions and other administrative matters, and Health Insurance Portability and Accountability Act Privacy Rule issues.
- Counseled an academic medical center in potential litigation with a state's largest commercial insurer on claims of defamation and deceptive trade practices, where insurer's tactics included a media campaign and patient steerage to other providers following termination of contract by the center and its movement to out-of-network status.