

KOEHLER FITZGERALD

| DEFENDING PATIENTS AND PLANS ACROSS THE U.S. |

Koehler Fitzgerald

Koehler Fitzgerald LLC provides highly specialized legal services for self-insured health plans, their members and sponsors, TPAs, and reference-based pricing plans.

The firm's services encompass defense of out-of-network claims, claim repricing and scrubbing, and the national defense of patients confronted with balance billing claims. Additionally, the firm can represent plans nationally in the recovery of claim overpayments.

Koehler Fitzgerald's services cover all stages of collection activity, from advocacy to provider billing to jury trial and appeal.

Koehler Fitzgerald's multilingual services are supported by the use of proprietary and customized software to track and support all of its tasks and provide customized weekly reports of the status of claims and activity.

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RBP Gaining Momentum

A July 17, 2018 article by John Kern, regional vice president of Corporate Synergies' Florida office, says that the U.S. faces not a healthcare issue, but rather a billing issue caused by "a lack of cost transparency, which is driven by people who are motivated to keep benefit plan sponsors and healthcare consumers in the dark. Part of the problem is that most cost-reduction strategies are developed by independent players in the healthcare food chain. This siloed approach fails to address the entire ecosystem, and that's why we continue to lament that nothing seems to be working." Kern views reference-based pricing as a solution, one that's "slowly gaining momentum. Reference-based pricing attacks the problem from all angles and targets billing – which is at the heart of the crisis." Self-funded plans employing reference-based pricing pay for medical services based on a percentage of CMS reimbursements (e.g. Medicare + 50%), rather than a negotiated percentage discount off billed charges.

"Reference-based pricing is becoming increasingly popular as more organizations consider the move to correct cost transparency issues as they transition from fully-insured to self-funded insurance plans.





UPL

The unauthorized practice of law ("UPL") by companies seeking to settle debts on behalf of consumers is attracting increased attention in the U.S.

For example, in *Ohio State Bar Assn. v. Century Negotiations, Inc.*, 152 Ohio St.3d 64, 2017-Ohio-9110, the Ohio Supreme Court issued an order enjoining the UPL by a Pennsylvania corporation that had provided debt resolution services to Ohio consumers. Central to the ruling was the proposition that "[a] corporation cannot lawfully engage in the practice of law; nor can it do so indirectly through the employment of qualified lawyers." In most, if not all states, a business organization must be 100% owned by admitted lawyers to lawfully engage in the practice of law. The *Century* holding is applicable to TPAs, health care sharing ministries and other non-lawyer owned organizations.

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"One well-known and considerable example is Montana's state employee health plan. The state employee health plan administrator received a notice from legislators in 2014 urging the state to gain control of healthcare costs. Instead of beginning with hospitals' prices and negotiating down, they turned to reference-based pricing based on Medicare. Instead of negotiating with hospitals, Medicare sets prices for every procedure, which has allowed it to control costs. Typically, Medicare increases its payments to hospitals by just 1-3% each year.

"The state of Montana set a reference price that was a generous 243% of Medicare – which allowed hospitals to provide high-quality healthcare and profit, while providing price transparency and consistency across hospitals."

Of course, the risk is balance billing. "If balance billing does occur, many solutions include a law and auditing firm to resolve the dispute. ... Reference-based pricing is a forward-thinking way to manage costs while providing high-quality benefits to your employees. It's one way to improve cost transparency, which may eventually transform the way that we buy healthcare." Koehler Fitzgerald represents the members of more than 90 self-funded plans utilizing reference-based pricing.

Corporate Synergies is a national insurance and employee benefits brokerage and consultancy. It crafts creative plan designs, recommends risk management strategies, and brokers insurance solutions.



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