

Details Matter: Medical Plan Anti-Assignment Clauses Protect Employers

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Yes, details matter. This is true on many fronts, including whether the documents governing the medical plan offered to employees prohibit employees and their dependents from assigning their plan benefit rights to a health care provider.

Many employers purchase insured medical programs, and for these programs the essential terms of the medical program are controlled by the insurance carrier and embedded within the insurance contract. However, nearly [one-half](#) of employer-sponsored health plans are self-insured or funded through a combination of insurance and self-insurance. For self-funded plans, many employers have little understanding regarding the details of the medical plan document.

Why is this important? Well, for one thing, there is a growing trend in which out-of-network health care providers attempt to bring suit directly against the employer or the employer medical plan, seeking additional recovery where the plan pays only a portion of the amount billed by the provider.

Normally, ERISA authorizes lawsuits by participants, but the provider often has the participant (patient) execute an “assignment of benefits,” which, if valid, permits the health care provider to “step into the shoes” of the patient and sue for additional benefits to the same extent as the patient could do.

The key words, of course, are “if valid.” There are a series of cases holding that an employer medical plan may prohibit a participant or dependent from assigning his or her benefit rights to the health care provider. If the medical plan prohibits assignment, the health care provider generally is unable to bring a recovery action against the employer or employer medical plan. On the other hand, if the medical plan permits (or does not prohibit) assignment of benefits, the health care provider that has obtained an assignment of benefits can (and likely will) bring suit directly against the employer or employer medical plan.

Thus, the plan details — and, in particular, whether the plan prohibits assignment of benefits — can be critically important.

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