



Two-Sided Incentive Arrangements: What You Need to Know

During the 2022 Session, Maryland passed ***House Bill 1148/Senate Bill 834: Health Insurance – Two-Sided Incentive Arrangements and Capitated Payments – Authorization***. This bill authorizes commercial insurance carriers to enter into two-sided incentive arrangements with physicians and other health care practitioners. A two-sided incentive arrangement is a contract that allows for bonus payments to be paid to physicians as well as the authority for insurance carriers to recoup funds if contract terms are not met. MedChi diligently worked to negotiate protections for both those physicians that decide to participate in these arrangements and those that do not. As a result, Maryland now has the strongest physician protections in the nation regarding value-based contracts.

If you decide not to enter into a two-sided incentive arrangement, know the following:

- A carrier CANNOT require you to enter into a two-sided incentive arrangement. Participation is voluntary.
- A carrier CANNOT reduce your fee schedule for not participating in its bonus or other incentive-based compensation or two-sided arrangement program.
- A carrier CANNOT make entering into a two-sided incentive arrangement a condition of participation in the carrier's network.
- A carrier must provide other opportunities for rate increases other than participation in a two-sided incentive arrangement.
- A physician CAN file a complaint with the Maryland Insurance Administration for violating any of these provisions.

If you decide to enter into a two-sided incentive arrangement, then the contract, at a minimum, must:

- Establish a target budget for the total cost of care of a population of patients adjusted for risk and population size, or on episode of care;
- Limit recoupment to no more than 50% of the excess above the mutually agreed upon target budget;
- Specify a mutually agreed upon maximum liability for total recoupment that may not exceed 10 % of the annual payments;
- Provide a physician with an opportunity for gains that is greater than the opportunity for recoupment by the carrier;
- Provide an opportunity for an audit by an independent third party and an independent third-party dispute resolution process following good faith negotiation, which does not have to be exhausted prior to filing an appeal of a coverage decision under Maryland's appeals and grievance law;



- Require the carrier and the physician to negotiate in good faith adjustments to the target budget when certain circumstances beyond the control of the carrier or the eligible provider arise, such as changes in hospital rates and when material changes occur in health care economics, health care delivery or regulation that impact the arrangement; and
- Require the carrier to pay any incentive or request any recoupment from the physician owed under the contract within six months after the end of the contract year, unless the carrier or the physician initiates a dispute relating to the recoupment or incentive amount.

Additional protections for physicians who opt to enter into a two-sided incentive arrangement include:

- Unless mutually agreed upon between the physician and the carrier,
 - The first year of the contract cannot contain a recoupment provision; and
 - The arrangement CANNOT be amended during the term of the contract.
- At least quarterly carriers must provide any amount paid to another health care provider that is included in the cost of care of a patient in the population or episode of care; and any copayment, coinsurance or deductible that is included in the total cost of care of a patient in the population or episode of care.

If you believe that an insurance carrier is using unscrupulous tactics to force you into a two-sided incentive arrangement, has reduced your fee schedule for not participating or is not including the terms noted above in the contract, call MedChi at _____.

The full text of the bill can be found at [2022 Regular Session - House Bill 1148 Third Reader \(maryland.gov\)](#)