



**Garfunkel Wild**

## **What To Do When The Payor Says No**

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Moderated by:

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# The Changing Landscape

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As payors increasingly seek to maximize profits, providers need to be aware of aggressive policy changes and prepare for tougher contract negotiations. More and more, providers are seeing payors:

1. During the course of a contract, implementing policies that eat away at expected revenue.
2. Upon contract renewal:
  - A. Starting rate negotiations with a proposal reflecting rate reductions;
  - B. Insisting on new paper and taking a hard line with respect to previously accepted contractual protections.

# Today's conversation – it's a process

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- Assessing your current situation
- Developing a negotiation strategy
- Managing expectations
- Negotiating with the payer

# Karim A. Habibi, FHFMA, MPH, MS

Senior Vice President and Chief of Managed Care

NYU Langone Health



Karim is the Senior Vice President and Chief Managed Care at NYU Langone Health. Karim's responsibilities include the development and execution of managed care strategies on behalf of the hospitals and over 4,500 employed physicians.

Karim directs the managed care contracting efforts for fee for service and value based contracts. The value-based contracts encompass hospital quality based contracts, bundled payments programs, and ACO like arrangements.

Karim has 39 years of healthcare experience and holds a Master of Science in Health Services Management from New York University and a Master of Public Health in Health Administration from the University of Oklahoma. He is a Fellow of the Healthcare Financial Management Association and is certified in the areas of managed care and patient accounts. Mr. Habibi coauthored articles and spoke at national conferences on managed care contracting, bundled payments, surgical implant cost containment strategies, and cost effective clinical practices.

# Kwynn Smith

Vice President Payer Contracting

Mount Sinai Health System



Since 2016, Kwynn Smith has been the Vice President of Payer Contracting of Mount Sinai Health System and Mount Sinai Health Partners. Kwynn is responsible for Facility, Professional Employed and Clinically Integrated Provider fee for service, Ancillary Clinically Integrated Provider, Value Based, Centers of Excellence contracting, Contract Compliance and Enforcement.

Prior to joining Mount Sinai, Kwynn was at Montefiore Health for 17 years in the Managed Care Department.

# Jeff Pogany

President & Founder

Pogany Managed Care Consulting Services (PMCC)



Jeff Pogany is a highly accomplished healthcare executive with over 17 years of expertise in managed care contracting, provider network development, strategic reimbursement, and payer negotiations. His leadership spans major payers, provider networks, consulting, and innovative health tech companies.

Currently, Jeff serves as Chief of Provider Partner Network at Onelming, where he drives a transformative approach to radiology network partnerships. By simplifying contracting, offering upfront payments, and eliminating administrative friction, he ensures alignment between provider satisfaction, operational efficiency, and patient access.

He is also the Founder and President of Pogany Managed Care Consulting (PMCC), a national firm advising hospitals, ancillary providers, and medical groups on payer negotiations, contract optimization, and revenue cycle strategy. PMCC's impact includes increasing client reimbursement, simplifying contract structures, and strengthening payer relationships across Commercial, Medicare, and Medicaid programs. Previously, Jeff held key leadership roles at a major health system, payers, and a digital health company:

- AVP of Managed Care Contracting and Strategy at Montefiore Health System
- Senior Director of Network Development at Progyny, Inc.
- Director of Network Management at UnitedHealthcare
- Director & Chief of Staff – Network at Elevance | Anthem Blue Cross Blue Shield

# Debra A. Silverman

Partner/Director

Garfunkel Wild, P.C.



Debra A. Silverman is the Chair of Garfunkel Wild's Managed Care Practice Group. She represents hospital systems, teaching and community hospitals, faculty practice plans and physician group practices, with an emphasis on managed care contracting, health care delivery networks, accountable care organizations, clinical integration, physician arrangements, antitrust and regulatory matters.

Along with administering the firm's managed care group, Debra handles direct negotiations with major managed care organizations (including Empire Blue Cross/Blue Shield, Aetna, CIGNA, United Healthcare and EmblemHealth as well as Medicare and Medicaid managed care plans) for fee-for-service, accountable care and full-risk arrangements. A frequent lecturer for the Healthcare Financial Management Association, Debra was also a contributing author of the New York Health Law Update. Debra has been selected for inclusion in The Best Lawyers in America every year since 2016, and has been named a "Super Lawyer" each year since 2014. She graduated *cum laude* from Princeton University and received her JD degree from the University of California, Hastings College of Law.

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# Today's conversation – it's a process

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- **Assessing your current situation**
  - **What is your value proposition in the market?**
- Developing a negotiation strategy
- Managing expectations
- Negotiating with the payer



# Today's conversation – it's a process

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- Assessing your current situation
- **Developing a negotiation strategy –**
  - **What do you do to prepare for a rate renegotiations?**
  - **Is there a difference in strategy when you're negotiating rates vs. language?**
  - **Do you put new language on the table?**
  - **How do you react when payors send a new agreement template?**
- Managing expectations
- Negotiating with the payer

# Key Contract Issues & Protective Language

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- Payor Policies
  - Unilateral modifications to payor policies can have material adverse impacts on providers.
  - Organizations must monitor policy updates
- Rate increases
  - Not only are payors rejecting built-in COLA increases, they're increasingly requesting rate reductions.
- Payment methodology
  - Payors are cherry-picking when to apply Medicare methodologies, to their benefit.
- Overpayments/Underpayments
  - Payors have become less willing to agree to language that provides for equal lookback periods for overpayments vs. underpayments.

# Today's conversation – it's a process

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- Negotiating with the payer

# Today's conversation – it's a process

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- Assessing your current situation
- Developing a negotiation strategy
- Managing expectations
- **Negotiating with the payer**
  - **Who, when and how?**

# Renewal Negotiations – Here We Go...Again

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1. When a payor refuses a proposed rate increase, what is your first internal step?
2. How do you proceed to escalate that issue in your negotiations with the payor?
3. What factors do you consider when a payor takes a hard line in rejecting protective language for critical contract terms?
4. Are there any financial trade-offs that a payor could offer that would make you willing to accept language that is less desirable?

# Hitting A Wall – When Talks Get Tense

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1. How do you determine whether a payor's "no" is negotiable or a true impasse?
2. What leverage or data has proven most effective in turning a "no" into a "yes" (e.g., market share, community standing, utilization trends, market rates, quality outcomes)?
3. How do you balance standing firm with maintaining a long-term payor relationship?
4. What tactics have backfired or caused unintended consequences in your experience?
5. How can patient communications impact contentious negotiations?
6. Do you recommend using an outside public relations firm?
7. When do you start preparing patient communications for a potential out-of-network move in case negotiations fail?
8. Have you ever walked away from a contract? What were the lessons learned?

# Main Takeaway

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If you had to give one piece of advice to a new managed care leader facing their first major payer rejection, what would it be?

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