



RMS

RISK MANAGEMENT SERVICES

COVERAGE GUIDELINES FOR CONTRACT PRACTITIONERS

The CSAC-Excess Insurance Authority (EIA) Medical Malpractice Program provides coverage for professional and general liability exposures to Member Counties related to the operation of Health Care Facilities or providing treatment to County patients. The coverage is broad in nature and allows the Member County to extend coverage to contract practitioners (Contractor) via written contract; however it is not the intent of the program to provide coverage to a provider's private practice.

Should a claim be reported to the EIA involving a Contractor, the following will be requested to determine if coverage applies to the Contractor:

- A. A copy of the written contract between the Member County and the Contractor. This document should provide the terms of the relationship between the Member County and the Contractor, the Contractor's scope of duties, and the terms for defense and indemnification between the Member County and the Contractor. **(All written contracts should comply with STARK II regulations that went into effect 7/26/04. Members should consult with Counsel to determine if contract language and/or compensation arrangements comply with the STARK II regulations.)**
- B. Notwithstanding a written agreement between the Member County and the Contractor, determining coverage is sometimes difficult. Several tests should be applied to the incident that resulted into a claim. These would include:
 - 1) Was the Contractor treating a County patient at a County facility?
 - 2) Was the County responsible for billing the provided services and did the County receive payment for the provided services?
 - 3) If treatment of a County patient was provided at a non-County-owned facility, does a contract exist between the Member County and the non-County-owned facility covering the relationship and services?
 - 4) What direction was the Contractor given by the Member County related to provision of services to County patients either at a County-owned or non-County-owned facility?

C. Other issues related to Contractor coverage that need to be considered are:

- 1) If the Contractor bills directly for services provided to a County patient either at a County-owned or non-owned facility, is there an accountable offset provision in the contract?
- 2) If the Contractor has a private practice and also provides medical care for County patients, is there a process to distinguish treatment provided to County patients versus private practice patients?
- 3) The contract should define that only the Contractor in a private practice setting is the covered party and that coverage does not extend to the Contractor's medical staff, consultants, associates or visiting practitioners.

These Guidelines provide a basis for determining coverage to Contractors. While the County has broad discretion in providing coverage to Contractors, the Program's intent is to cover the operation of a County Health Care Facility or the treatment of County patients. (**Again, keeping in mind the STARK II regulations.**)

The underwriting of the Program is based on the traditional County practitioner/County patient relationship. The more individual Member County/Contractor agreements deviate from this traditional relationship, the more they create underwriting considerations that could impact the cost of coverage to the entire Program. The impact to the Program, from an underwriting standpoint, should always be considered when developing coverage exposures with Contractors.