



AMERICAN
HEALTH LAWYERS
ASSOCIATION

Payors, Plans and Managed Care Law Institute

November 8-9, 2010
Chicago Marriott Magnificent Mile
Chicago, IL



NAVIGANT
CONSULTING

*Navigant Consulting, Inc.
has provided sponsorship
in support of this program*

Planning Committee:

Gary Scott Davis, Esq.— *Program Chair*
David Abelman, Esq.
Kevin D. Gordon, Esq.
Lisa A. Hathaway, Esq.
James P. Wolf, Esq.

Program Agenda

Monday, November 8, 2010

7:30 am-5:00 pm

Registration and Information

7:30-8:30 am

Continental Breakfast sponsored by Navigant Consulting, Inc.

(attendees, speakers, registered adult guests and children welcome)

CONCURRENT SESSIONS

8:30-9:30 am

A. Fundamentals – Regulatory Framework

(not repeated)

Julie Simon Miller

B. Redefining the Role of Providers in Managing Care – Innovation, Integration and the Accountability

Gary Scott Davis

- Accountable care organizations, medical homes and other provider integration models designed to promote efficiency, outcomes and quality improvement
- How these emerging models differ from models in the past
- Lessons learned from first generation integrated delivery models
- Implications for intra- and inter-provider relations
- Effect of Stark, fraud and abuse, tax-exemption and CMP laws on evolving integration model and relationship between hospital and physicians
- Application of existing guidance on gainsharing and pay-for-performance to emerging models

C. New Directions in Antitrust Enforcement in a “Reforming” Healthcare World

Arthur N. Lerner

- How the Department of Justice evaluates market power and merger issues in health insurance and managed care
- How the FTC takes into account customer “willingness to pay” for different providers’ services in targeting hospital mergers for antitrust challenge

- How the new FTC and Department of Justice merger guidelines could affect healthcare antitrust enforcement
- Whether the proposed amendments to the McCarran-Ferguson antitrust exemption would be a “game changer”

9:45-10:45 am

D. Fundamentals – Medicare C and D

(not repeated)

Elizabeth B. Lippincott

- Part C (Medicare Advantage) and Part D Prescription Drug Plan benefits
- The plan bidding and reimbursement process
- Regulatory requirements for critical plan functions, including sales and marketing, enrollment, coverage determinations, and appeals and grievances
- Oversight of plan sponsors by the CMS, including ongoing monitoring and audits
- Researching legal and regulatory questions relating to Medicare Part C and D, where answers are often contained in sub-regulatory guidance

E. The Latest in Regulatory Rate Review: The What, Where and How

Elisabeth A. Ditomassi

Dean Richlin

- The rate review provisions of PPACA
- State rate view: the experiences in Massachusetts, California and Maine
- Rate review from the regulators’ perspective: Apart from the hard data, what else will influence the decision to disapprove?
- The rate review process: Submission, review, ruling, administrative appeal and litigation
- How to prepare for rate review, including the importance of varied product design, aggressive contracting practices and the development of rates that tell a story
- How to fend off rate disapproval after the filing has been made but before a decision has been reached
- How to respond to rate disapproval; strategies and theories for administrative and judicial review

Program Agenda

F. Legal Ethics: Health Plan Compliance, Audits and Ethics in the New Healthcare Reform World

John Todd

- Compliance and legal ethic challenges in the new healthcare reform regulatory and liability environment: New regulators, expanded regulation, the "federalization" of commercial health business, and fraud and abuse and whistleblower exposure
- Preparing the enterprise – strategies for compliant healthcare reform implementation
- Preparing the enterprise – reinforcing the compliance and ethics culture

11:00 am-12:00 noon

G. Fundamentals of Healthcare Antitrust

(not repeated)

Douglas C. Ross

- Antitrust law: Everything you ever wanted to know but were afraid to ask (in ten minutes)
- Government enforcement in healthcare: what's changed under the Obama administration
- Provider networks – from IPAs and PHOs to ACOs
- Joint ventures: Hospitals and physicians work together without violating the antitrust laws
- Clinical integration: The next big thing?
- Mergers and acquisitions: Hospital mergers, physician group mergers and hospital acquisitions of physician groups
- Exclusionary practices: Antitrust implications when health plans limit provider panels
- Credentialing and peer review: Always fertile grounds for antitrust litigation
- Defenses: State action, Noerr-Pennington, the Health Care Quality Improvement Act – and even more ways to defeat an antitrust claim

H. Payor-Provider Litigation—Advanced Topics and Recent Developments

James W. Boswell

- Provider litigation hot topics, including silent PPOs, tiering/ranking of providers, over-payment/audit-related litigation, non-par

provider litigation, participating provider pre-authorization/pre-certification litigation, UCR/Ingenix and co-pay and deductible waivers

- Off-label drug use litigation
- PBM litigation

J. Advanced Payment: Medicare Advantage and Medicare Part D Programs in the Post-Healthcare Reform Era

Anne W. Hance

- Medicare Advantage Plan payment – quality bonuses and the use of MA rebate dollars, both tied to the (somewhat subjective) CMS quality ranking system, and also issues for MA organizations and providers
- Risk Adjusters – the legal implications associated with CMS's focus on emphasis on risk adjusted payments, including collection and submission of the underlying beneficiary data from providers and legal and practical considerations for MA Organizations and providers
- CMS Oversight – CMS's new tools and some of the legal and operational implications for Plan Sponsors

12:00 noon-1:20 pm

Lunch on your own or attend the Payors, Plans and Managed Care Practice Group Luncheon, sponsored by Berkeley Research Group LLC (additional fee, limited attendance, pre-registration required, see page 11)

Employer On-Site Clinics as Medical Homes

Elise D. Brennan

Doerner Saunders Daniels & Anderson, Tulsa, OK

Richard M. Luceri, MD

VP Healthcare Services, JM Family Enterprises, Inc., Deerfield Beach, FL

CONCURRENT SESSIONS

1:30-2:30 pm

K. Fundamentals – ERISA (not repeated)

Priscilla E. Ryan

L. Health Plans as Targets and Partners in Healthcare Fraud Investigations

Kirk J. Nahra

- New kinds of investigations that are being directed against health plans

Program Agenda

- How health plans should partner with the government in fraud investigations of healthcare providers
- How health plans can take advantage of their dual role in many fraud investigations
- How health plans can structure their compliance activities to minimize risks of government fraud investigations

E. The Latest in Regulatory Rate Review: The What, Where and How (repeat)

2:45-3:45 pm

M. Fundamentals – Health Plan-Provider Contracting (not repeated)

Rakel Meir

- Basic provisions to include in a plan's contract with a provider, IPA or IDN
- What you can expect providers to raise during the negotiation
- New developments and their potential impact on contracting (e.g. ACOs)

N. Provider Alignment for Quality and Payment: New Takes on Old Ideas (not repeated)

Christine J. Braun

Michelle D. Johnson

- The reasons why providers are investigating and undertaking alignment strategies
- The legal concerns that arise from provider alignment strategies and ways to minimize the risk
- The pros and cons of the current alignment strategies
- Real life examples and why the providers went with the strategies they did

O. HITECH Data Breach Anniversary

Katherine M. Keefe

- Regulatory and enforcement activities
- Data breach response policies
- What to expect when reporting to OCR
- Drafting individual and media notices state law considerations

4:00-5:00 pm

P. Fundamentals – Litigation (not repeated)

Brian R. Stimson

- Non-participating provider claims
- Participating provider claims
- Federal versus state arbitration acts
- Governmental immunity defenses
- Provider and member class actions
- The impact of healthcare reform

Q. Implementation of Health Insurance Exchanges – Implications for Health Plans (not repeated)

Catherine Sreckovich

- The design options open to states in implementing health insurance exchange
- How health plans will participate in the exchanges, and potential risks and benefits
- The implementation of exchanges and the impact on other insurance functions
- Some experiences from other states that have implemented “exchange-like” models

R. Untangling the Effects of Healthcare Reform Legislation and Mandates on Managed Care Contracting and Payor/Provider Negotiations

Lisa A. Hathaway

Mark S. Kopson

- Identifying new and “hot” contracting issues resulting from healthcare reform
- Tackling post-reform cost and quality transparency and reporting obligations
- Addressing new plan and provider liabilities in managed care contracts
- Contracting challenges presented by new care-delivery and payment models
- Applying historical MCA provisions to today's plans and providers

5:00-6:00 pm

Reception sponsored by Navigant

Consulting, Inc. (attendees, speakers, registered adult guests and children welcome)

Program Agenda

Tuesday, November 9, 2010

7:00 am-4:00 pm

Registration and Information

7:00-8:00 am

Continental Breakfast sponsored by Navigant Consulting, Inc.

(attendees, speakers, registered adult guests and children welcome)

GENERAL SESSION

8:00-8:15 am

Welcome and Introductions

Gerald M. Griffith, AHLA President-Elect

Gary Scott Davis, Program Chair

8:15-9:45 am

The Impact of Healthcare Reform on the Future of Managed Care

Edward F. Howard (Moderator)

Susan H. DeVore

Alissa Fox

Brian Webb (invited)

CONCURRENT SESSIONS

10:00-11:00 am

S. Medicaid Managed Care Network and Provider Relations Issues (not repeated)

Mark H. Gallant

- Statutory framework for Medicaid managed care, and Medicaid expansion under the PPACA
- Payments for non-par provider services under federal and state law
- Suits by and against Medicaid plans under 42 USC 1983 and the false claims act (including ACA developments)
- Key contacting issues (plan and provider perspectives)

T. Managed Care in the New Frontier: How Healthcare Reform and Increased Regulatory Scrutiny are Impacting Healthcare Litigation

Christopher Flynn

- Attacks on PPACA
- Status and analysis of legal assaults on PPACA

- Premium increase litigation and its predictive value for life under PPACA
- Medical Loss Ratio issues in litigation
- Member litigation issues, including bad faith, post-claims rescission, external review process litigation and pre-existing conditions

J. Advanced Payment: Medicare Advantage and Medicare Part D Programs In the Post-Healthcare Reform Era (repeat)

Interactive Session I:

How PPACA Is Going To Change Your Life if You Are a Health Plan

James P. Wolf (Moderator)

A guided interactive session, led by experienced health plan counsel, to discuss challenges presented to health plan counsel by PPACA. Attendees should come prepared to discuss and share their experiences and challenges in dealing with the requirements of PPACA

(Please note: Attendance is limited to 40 participants and pre-registration is required; see page 11)

11:15 am-12:15 pm

U. PBMs and Pharmacies under Healthcare Reform (not repeated)

Bryan A. Schneider

Alexis C. Wood

- Key healthcare reform provisions, including new regulations under the Mental Health Parity Act and provisions within PPACA
- How the new laws impact benefit design structure
- The impact of the new laws on clinical management programs
- Preparation for Part D changes, including formulary expansion, coverage gap discounts, and transparency requirements

V. Redefining the Role of Providers in Managing Care – Innovation, Integration and the Accountability (repeat)

Program Agenda

F. Legal Ethics: Health Plan Compliance, Audits and Ethics in the New Healthcare Reform World (repeat)

Interactive Session II:

How Healthcare Reform Will Change the Managed Care Strategy of Providers

Kevin D. Gordon (Moderator)

Participants should come prepared to discuss and share their experiences with advising providers on implementing the requirements of PPACA.

(Please note: Attendance is limited to 40 participants and pre-registration is required; see page 11)

12:15-1:30 pm

Lunch on own

CONCURRENT SESSIONS

1:40-2:40 pm

L. Health Plans as Targets and Partners in Healthcare Fraud Investigations (repeat)

H. Payor-Provider Litigation—Advanced Topics and Recent Developments (repeat)

R. Untangling the Effects of Healthcare Reform Legislation and Mandates on Managed Care Contracting and Payor/Provider Negotiations (repeat)

2:50-3:50 pm

C. New Directions in Antitrust Enforcement in a “Reforming” Healthcare World (repeat)

O. HITECH Data Breach Anniversary (repeat)

T. Managed Care in the New Frontier: How Healthcare Reform and Increased Regulatory Scrutiny are Impacting Healthcare Litigation (repeat)

ADJOURNMENT

Program Materials

We are trying to reduce the amount of paper we use at our programs. This is both an effort at responsible environmental conservation, and an effort to increase the timeliness of the resources provided to our attendees. We will not automatically be printing binders for everyone. All materials will be available on a website prior to the program so attendees can print what they need for the sessions they plan to attend and handed out on CD at the program. For those who still do want the binder, they will be available for an additional fee; please order on the registration form on page 11.

Program Faculty

PLANNING COMMITTEE

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Deerfield, IL

Catherine Sreckovich

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Chicago, IL

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Alston & Bird LLP
Atlanta, GA

John Todd

Deputy Chief Compliance and
Chief Ethics Officer
Aetna, Inc.
Hartford, CT

Brian Webb (invited)

Manager for Health, Legislation
and Policy
National Association of Insurance
Commissioners
Washington, DC

Alexis C. Wood, Esq.

Attorney, Healthcare Contracting
and Regulatory
Walgreen Co.
Deerfield, IL

Program at a Glance

Monday, November 8, 2010

7:30 am– 5:00 pm	Registration and Information		
7:30– 8:30 am	Continental Breakfast sponsored by Navigant Consulting, Inc. (attendees, speakers, registered adult guests and children welcome)		
8:30– 9:30 am	A. Fundamentals – Regulatory Framework (not repeated) <i>Miller</i>	B. Redefining the Role of Providers in Managing Care – Innovation, Integration and the Accountability <i>Davis</i>	C. New Directions in Antitrust Enforcement in a “Reforming” Healthcare World <i>Lerner</i>
9:45– 10:45 am	D. Fundamentals – Medicare C and D (not repeated) <i>Lippincott</i>	E. The Latest in Regulatory Rate Review: The What, Where and How <i>Ditomassi Richlin</i>	F. Legal Ethics: Health Plan Compliance, Audits and Ethics in the New Healthcare Reform World <i>Todd</i>
11:00 am– 12:00 noon	G. Fundamentals of Healthcare Antitrust (not repeated) <i>Ross</i>	H. Payor-Provider Litigation– Advanced Topics and Recent Developments <i>Boswell</i>	J. Advanced Payment: Medicare Advantage and Medicare Part D Programs in the Post-Healthcare Reform Era <i>Hance</i>
12:00 noon– 1:20 pm	Lunch on your own or attend the PPMC Practice Group Luncheon, sponsored by Berkeley Research Group (additional fee, limited attendance, pre-registration required–see page 11)		
1:30– 2:30 pm	K. Fundamentals – ERISA (not repeated) <i>Ryan</i>	L. Health Plans as Targets and Partners in Healthcare Fraud Investigations <i>Nahra</i>	E. The Latest in Regulatory Rate Review: The What, Where and How (repeat) <i>Ditomassi Richlin</i>
2:45– 3:45 pm	M. Fundamentals – Health Plan-Provider Contracting (not repeated) <i>Meir</i>	N. Provider Alignment for Quality and Payment: New Takes on Old Ideas (not repeated) <i>Braun Johnson</i>	O. HITECH Data Breach Anniversary <i>Keefe</i>
4:00– 5:00 pm	P. Fundamentals – Litigation (not repeated) <i>Stimson</i>	Q. Implementation of Health Insurance Exchanges – Implications for Health Plans (not repeated) <i>Sreckovich</i>	R. Untangling the Effects of Healthcare Reform Legislation and Mandates on Managed Care Contracting and Payor/ Provider Negotiations <i>Hathaway Kopson</i>
5:00– 6:00 pm	Reception sponsored by Navigant Consulting, Inc. (attendees, speakers, registered adult guests and children welcome)		

Program at a Glance

Tuesday, November 9, 2010

7:00 am– 4:00 pm	Registration and Information			
7:00– 8:00 am	Continental Breakfast sponsored by Navigant Consulting, Inc. (attendees, speakers, registered adult guests and children welcome)			
8:00– 9:45 am	GENERAL SESSION 8:00-8:15 am Welcome and Introductions <i>Griffith, Davis</i> 8:15-9:45 am The Impact of Healthcare Reform on the Future of Managed Care <i>Howard (Moderator), DeVore, Fox, Webb (invited)</i>			
10:00– 11:00 am	S. Medicaid Managed Care Network and Provider Relations Issues (not repeated) <i>Gallant</i>	T. Managed Care in the New Frontier: How Healthcare Reform and Increased Regulatory Scrutiny are Impacting Healthcare Litigation <i>Flynn</i>	J. Advanced Payment: Medicare Advantage and Medicare Part D Programs in the Post-Healthcare Reform Era (repeat) <i>Hance</i>	Please note: Attendance is limited and pre-registration is required Interactive Session I: How PPACA Is Going To Change Your Life if You Are a Plan <i>Wolf (Moderator)</i>
11:15 am– 12:15 pm	U. PBMs and Pharmacies under Healthcare Reform (not repeated) <i>Schneider Wood</i>	V. Redefining the Role of Providers in Managing Care – Innovation, Integration and the Accountability (repeat) <i>Davis</i>	F. Legal Ethics: Health Plan Compliance, Audits and Ethics in the New Healthcare Reform World (repeat) <i>Todd</i>	Please note: Attendance is limited and pre-registration is required Interactive Session II: How Healthcare Reform will Change the Managed Care Strategy Providers <i>Gordon (Moderator)</i>
12:15– 1:30 pm	Lunch on own			
1:40– 2:40 pm	L. Health Plans as Targets and Partners in Healthcare Fraud Investigations (repeat) <i>Nahra</i>	H. Payor-Provider Litigation—Advanced Topics and Recent Developments (repeat) <i>Boswell</i>	R. Untangling the Effects of Healthcare Reform Legislation and Mandates on Managed Care Contracting and Payor/Provider Negotiations (repeat) <i>Hathaway Kopson</i>	
2:50– 3:50 pm	C. New Directions in Antitrust Enforcement in a “Reforming” Healthcare World (repeat) <i>Lerner</i>	O. HITECH Data Breach Anniversary (repeat) <i>Keefe</i>	T. Managed Care in the New Frontier (repeat) <i>Flynn</i>	

Program Information

Dates: November 8-9, 2010
Place: Chicago Marriott Magnificent Mile
540 North Michigan Avenue
Chicago, IL 60611
Reservations: (800) 228-9290

Registration Fees:

Postmarked and paid by October 18

\$730 For the first AHLA Member*
\$655 For each additional Member*
\$955 Non-Members

Postmarked and paid between October 19 and November 4**

\$855 For the first AHLA Member*
\$780 For each additional Member*
\$1,080 Non-Members

Printed Course Materials: \$45

** Registration fees increase \$125 after this date.

If you have indicated an incorrect amount due to errors in addition or not being eligible for a specific rate, AHLA will charge the correct amount to the credit card you have supplied.

Discounted Registration Fees: Government employees, in-house counsel, academicians, solo practitioners and students: please call (202) 833-0766 for special discounted registration fees.

Spouse/Guest Fee: For an additional \$30 spouses and adult guests can register to attend the reception on Monday evening and the breakfasts on Monday and Tuesday mornings. Please sign up on the registration form. (*Children are welcome to attend these events at no additional charge.*)

Continuing Education: Participants will be given continuing education forms at the program. Forms must be completed and returned to AHLA staff to receive credit. AHLA is an approved sponsor of continuing legal education credits in most states. This seminar will be worth approximately 11.5 continuing education credits (including 1.0 ethics credit) based on a 60-minute hour and 13.8 credits (including 1.2 ethics credits) based on a 50-minute hour.

AHLA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417. Website: www.nasba.org. This seminar will be worth approximately 13.0 CPE credits.

for this group live program. Those seeking accounting credits should be familiar with the basic concepts of law and terminology associated with the area of managed care in order to obtain the full educational benefit of this program.

Hotel Reservations: Hotel accommodations are not included in the registration fee. Call the Chicago Marriott Magnificent Mile (800) 228-9290 or use the reservation form found on page 13. ***If calling, please indicate that you are attending the AHLA program. Rooms at the group rate are limited and may sell out.***

Membership: Dues are \$185 for those admitted to the Bar/graduated from college within the last four years; \$300 for those admitted/ graduated more than four but less than eight years ago; and \$345 for those admitted/ graduated eight or more years ago. Dues are \$155 (or \$75 for electronic benefits) for government employees, paralegals, and full-time academicians; \$105 for public interest attorneys and \$15 for full-time law school students to receive benefits electronically. Include the applicable membership fee with your registration form and take advantage of the program registration fee for members.

Cancellations/Substitutions: Cancellations must be received in writing ***no later than November 1, 2010.*** Refunds will not be issued for cancellations received after this date. Registration fees, less a \$125 administrative fee, will be refunded approximately 3-4 weeks following the program. If you wish to send a substitute or need more information regarding refund, complaint and program cancellation policies, please call the Member Service Center at (202) 833-0766. Please note that registration fees are based on the AHLA membership status of the individual who actually attends the program.

Special Needs: If you need any of the auxiliary aids or services identified in the Americans with Disabilities Act, please call the Member Service Center at (202) 833-0766.

Travel: Association Travel Concepts (ATC) has negotiated discounts with United, American, Hertz and Avis Rental Car to bring you special airfares and car rental rates lower than those available to the public. Discounts of 5-15% apply to travel on November 5-12, 2010. Some restrictions may apply and a service fee may apply. ATC will also search for the lowest available fare on any airline.

ASSOCIATION TRAVEL CONCEPTS

1-800-458-9383

email: reservations@atcmeetings.com

www.atcmeetings.com

(follow the Member Travel links)

Fax: (858) 362-3153

ATC is available for reservations from 8:30 am until 8:00 pm Eastern, Monday through Friday.

Payors, Plans and Managed Care Registration Form

To register: Remit payment and completed registration form by mail to the American Health Lawyers Association • P.O. Box 79340 • Baltimore, MD 21279-0340 or fax with credit card information to (202) 775-2482. To register by phone call (202) 833-1100, Prompt #2. If any program is over-subscribed, only AHLA members will be placed on a waiting list. On-site registrations will be accepted on a space-available basis only.

Name: _____ Member ID #: _____
First Name for Badge (if different than above): _____
Title: _____
Organization: _____
Address: _____
City: _____ State: _____ ZIP+ 4: _____
Telephone: (____) _____ Fax: (____) _____
E-Mail: _____
Spouse/Guest Name _____

Early Registration Fees (faxed/postmarked and paid on or before October 18, 2010):

Members: [] \$730 Non-Members: [] \$955
[] \$655 each additional member registering from same organization at same time on the same check or credit card payment

Registration Fees (faxed/postmarked and paid between October 19 and November 4, 2010):

Members: [] \$855 Non-Members: [] \$1,080
[] \$780 each additional member registering from same organization at same time on the same check or credit card payment

Please register me for the following Interactive Session (attendance limited to 40 people; no additional charge):

[] Interactive #1: How PPACA Is Going To Change Your Llife if You Are a Plan
[] Interactive #2: How Healthcare Reform Will Change the Managed Care Strategy of Providers

PAYMENT INFORMATION

Please fill in applicable amount: (Sorry! Registrations cannot be processed unless accompanied by payment.)

\$ _____ Registration Fee
\$ _____ Payors, Plans and Managed Care Practice Group Luncheon (\$35 for members of the PPMC PG/\$45 for non-members; Monday, November 8, 2010)
\$ _____ Printed Course Materials (\$45)
\$ _____ Spouse/Adult Guest Fee (\$30)
\$ _____ Membership Dues (Date admitted to the bar/graduated: [] [] / [] [] / [] [])
\$ _____ Total Enclosed

[] Check enclosed (Make checks payable to American Health Lawyers Association)

Bill my credit card: [] [VISA] [] [MasterCard] [] [American Express] [] [Discover] [] Diners Club
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Please Note: Should your credit card total be miscalculated, AHLA will charge your credit card for the correct amount. To receive a refund of the registration fee paid minus \$125, cancellation notice must be received in writing by November 1, 2010. Please see page 10 of this brochure for AHLA's full refund policy.

Course Materials
All attendees will receive an electronic version of the full set of course materials for the program (more information on page 11). If you would like to purchase a binder, please indicate that below:
[] I am registering for the Managed Care Program and would like to purchase the binder for \$45



AMERICAN
HEALTH LAWYERS
ASSOCIATION

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Washington, DC 20006-4010

Payors, Plans and Managed Care Law Institute **Chicago, IL**

November 8-9, 2010
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Chicago, IL

Register by October 18 and save!
For updates and to register, go to
www.healthlawyers.org/programs

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