As the litigation surrounding MCOs continues to mount, and costs skyrocket, top in-house counsel and leading law firm attorneys will share best practices, practical information and strategies on how to:

- **DEVELOP** a class action defense strategy to combat increased litigation involving medical necessity, mental health parity and eating disorder lawsuits
- **PREPARE** for and **DEFEND** against the surge of suits resulting from healthcare reform implementation
- **MITIGATE** the risks resulting from increased government focus on fraud, waste and abuse
- **USE ADR** to resolve provider-payer disputes quickly, effectively and inexpensively
- **MANAGE** disputes arising from participation in Medicare Advantage Plans
- **BRACE** for greater governmental scrutiny stemming from MCO consolidation and **MINIMIZE** exposure to antitrust violations
- **ASSESS** recent preemption case law and develop winning arguments to defeat ERISA claims

Complete your training by attending the interactive Pre-Conference Workshop:

**ERISA 101: Dissecting the Fundamentals for Managed Care Litigators**
In 2013, more than 120 leaders in the Managed Care field converged in Philadelphia for American Conference Institute’s Managed Care Disputes and Litigation annual event. As we move into 2014 and Affordable Care Act implementation is a reality, MCOs are now facing new litigation risks resulting from the multiple provisions in the ACA. In addition, MCOs continue to represent “deep pockets” for potential plaintiffs and classes. The pursuit and defense of these suits requires meticulous planning, and often involve high cost. ACI is pleased to present its 5th Advanced Forum on Managed Care Disputes and Litigation, which features trial attorneys and in-house counsel who have been active in some of the year’s biggest cases. No other forum provides the opportunity to share defense strategies and tactics to enhance your litigation toolkit.

**Gain best practices and advanced strategies for handling the most complex litigation challenges facing MCOs**

MCOs still struggle to fight off rampant litigation centered on: antitrust violations, ERISA, false claim act violations, complex class actions, non-par litigation, Medicare Advantage challenges and much more. The litigation in the managed care space has become more complicated, which necessitates an opportunity for you to have in-depth strategic discussions with your industry peers. In addition, this event features extensive networking opportunities with high-level representatives from many of the leading MCOs as well as the top litigators in the field.

**New This Year: In-House Think Tank on Defending Managed Care Suits**

Hear from these leading MCOs on how they manage this complicated and costly litigation what they expect from their counsel. Counsel from Amerigroup Corporation, Health Net, Premera Blue Cross and WellCare will converge to offer their insights, and share their concerns pertaining to this litigation including:

- What litigation and settlement strategies have proven effective for in-house counsel pursuing and defending claims?
- Controlling costs through cohesive strategies and proper settlement advice
- Coordinating the defense between managed care plan, in-house counsel, outside counsel and the client

**ERISA 101 Workshop Provides In-Depth Training**

Managed care litigation often hinges on ERISA issues and it is crucially important for you to understand the complexities and nuances of the statute. ERISA 101 will help you identify the critical issues while delving deeper into the fundamentals of ERISA. Learn how to identify key provisions that may raise red flags during litigation. Failure to have a clear understanding of the statute can lead to costly litigation and long-term financial problems.

Preceding iterations of this event have sold out so register today to ensure your place at this leading event.

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**“Good content, delivery, all speakers were deeply knowledgeable, outstanding “think tank” opportunity with my extended colleagues in the field.”**

— Prior Delegate, Senior Associate General Counsel, WellPoint Inc.

Hear what prior attendees have said about this leading event:

“This was a terrific conference. The topics were today’s issues. The presenters were great at presentation and very knowledgeable.”

“First rate all the way; best panels and audience of any conference of this type; managed flawlessly.”

“Very informative and concise – an excellent use of my time.”

“Had a wonderful time! Very interesting presentations.”

“Conference was outstanding... critical insight and critical advice were given. Wonderful learning experience.”

“The overall conference was excellent and covered a wide array of topics.

“Speakers and level of knowledge were extremely impressive.”
PRE-CONFERENCE WORKSHOP
Wednesday, May 14, 2014

1:00 pm – 4:00 pm (Registration begins at 12:15 pm)

ERISA 101:
Dissecting the Fundamentals for Managed Care Litigators

Miriam (Dusty) M. Burke
Partner, Vinson & Elkins LLP
(Austin, TX)

M. Katherine Strahan
Partner, Andrews Kurth LLP
(Houston, TX)

As a health care or managed care litigator, you know the importance of ERISA. This interactive workshop will help you identify the critical issues while delving deeper into the fundamentals of ERISA. Managed care litigation often hinges on these issues and you will be able to gain an understanding of the complexities and nuances of this statute. A distinguished faculty of top ERISA litigators will share their knowledge and give you critical insights on:

• Spotting an ERISA claim in a complaint and knowing what factual claims trigger the statute
• How the Affordable Care Act impacts, and is impacted by, ERISA
• The trend of third party administrators of health plans to accept ERISA fiduciary status
• Minimizing legal exposure for an ERISA suit in the administration and drafting of health plans
• Analyzing the intersection of ERISA with the ADA, the FMLA, Workers’ Comp, and the Internal Revenue Code
• Defending a breach of fiduciary duty claim in ERISA managed care litigation and understanding the distinction between an ERISA breach of fiduciary duty claim and a claim for benefits under ERISA
• Understanding what specific remedies are available to plan participants and beneficiaries under ERISA
• What ERISA claims or causes of action are available to plaintiffs in managed care litigation?
• Application of the arbitrary and capricious standard of review in ERISA managed care disputes
• Who has standing to bring an ERISA claim for benefits in managed care litigation?
• Who are the proper party defendants in ERISA managed care litigation for benefit denial claims and breach of fiduciary duty claims?
• The evolving claims review procedures under ERISA and the Affordable Care Act
• Statute of limitations in actions for benefits under ERISA and the impact of the Supreme Court’s Heimeshoff decision
• ERISA preemption of state laws affecting managed care and an analysis of the recent Liberty Mutual case

MAIN CONFERENCE – DAY 1
Thursday, May 15, 2014

7:30 Registration and Continental Breakfast

8:00 Co-Chair’s Opening Remarks

A. Courtney Cox
Senior Managing Counsel, Litigation
WellCare Health Plans Inc. (Tampa, FL)

Tim McMichael
Assistant General Counsel
Premera Blue Cross (Mountlake, WA)

8:15 Managing the Class Action Minefield: Developing Strategies to Combat the Explosion of Medical Necessity, Mental Health Parity and Eating Disorder Suits

Richard J. Doren
Partner
Gibson, Dunn & Crutcher LLP (Los Angeles, CA)

Joseph Friedman
Member
Clark Hill PLC (Pittsburgh, PA)

Nicholas J. Pappas
Partner
Weil, Gotshal & Manges LLP (New York, NY)

• Demonstrating compliance with coverage requirements of the Mental Health Parity Act
• Preventing far-reaching relief, including monetary damages and injunctions that could negatively impact the way managed care organizations conduct their business
• Asserting defenses that can be used across multiple jurisdictions and plan types
• Managing member suits seeking unlimited coverage - minimizing the effect of the sympathetic plaintiff
• Understanding federal and state mental health parity laws and the potential for class action suits
• Preparing for the anticipated spike in class action suits stemming from Insurance Exchange provisions
• Minimizing exposure in benefit claims by asserting a preemption defense
• Scrutinizing the new claims by and against ACOs - what are the specific implementation issues
• Determining when to settle a claim versus when to continue the litigation
• Handling patient-class concerns about the accuracy, candor, and completeness of business practice disclosures
• Protecting private health information of your members to avoid increasing privacy class actions - reviewing existing and proposed state health information privacy laws

9:30 Morning Coffee Break
Sponsored by: Weil
9:45  **Carve in or Carve Out? Paving the Way for an Increase in Litigation Under the Affordable Care Act**

**Mark R. Chilson**  
Executive Vice President and General Counsel  
CareSource (Dayton, Ohio)

**Mary Beth Edwards**  
Managing Director  
Navigant Consulting, Inc. (Washington, DC)

**Jeffrey E. McFadden**  
Partner  
Steptoe & Johnson LLP (Washington, DC)

- Reconciling state law requirements with new and emerging federal mandates
- Analyzing the lawsuits challenging specific provisions of the ACA, i.e. the preventative services mandate
- Providing Congressional Committees with accurate documentation of the implementation of ACA  
  - reevaluating provider networks and payment rates
- Legal consequences of premium stabilization programs in small group and individual markets
- Defending against the surge of suits under the preventive services mandate of the ACA
- Clarifying regulations on essential plan benefits and how plans can count Medical Loss Ratios (MLRs)  
  - understand HHS’ purpose in implementing MLRs
  - how are the MCOs managing the calculations with newly defined regulations?
  - ensuring your MCO is in compliance with patient and overhead spending requirements
  - mitigating the risk of class action lawsuits associated with MLRs
- Minimizing legal consequences of tiered provider networks

11:15  **Alternative Dispute Resolution: Streamlining the Arbitration Process With an Eye Toward Litigation Avoidance**

**Paul Weller**  
Head of Provider Litigation  
Aetna (Blue Bell, PA)

**Paul A. Adams**  
Director  
Moss Adams LLP (Irvine, CA)

**Edwin E. Brooks**  
Partner  
McGuire Woods LLP (Chicago, IL)

- Managing and resolving provider-payor disputes as quickly, effectively, and inexpensively as possible
- Preventing litigation through conflict management
- Dialing down litigation hostility for plans and providers that must continue to make quality health care available to plan members.
- Dissecting the Healthcare Payor-Provider Arbitration Rules and their implications for health plans

12:30  **Networking Luncheon**

1:45  **In-House Think Tank on Defending Managed Care Suits**

**A. Courtney Cox**  
Senior Managing Counsel, Litigation  
WellCare Health Plans Inc. (Tampa, FL)

**Elliot K. Gordon**  
Vice President and Deputy General Counsel  
Health Net, Inc. (Woodland Hills, CA)

**Tim McMichael**  
Assistant General Counsel  
Premera Blue Cross (Mountlake, WA)

**Jeffrey L. Stredler**  
Senior Associate General Counsel, Litigation Department  
WellPoint, Inc. – Government Business Division (Virginia Beach, VA)

- Implementing tactics for getting rid of low level cases more quickly and inexpensively
- What litigation and settlement strategies have proven effective for in-house counsel pursuing and defending claims?
- Placing more effective emphasis on litigation avoidance
- Controlling costs through cohesive strategies and proper settlement advice
- Analyzing the defenses available to payors and plans
- Determining when to pursue affirmative cost recovery litigation against third parties
- Handling the defense more efficiently through national and regional counsel
- How are outside counsel selected?
- Coordinating the defense between the managed care plan, in-house counsel and outside counsel

3:15  **Afternoon Refreshment Break**

3:30  **Creating a Proactive Litigation Plan to Combat Suits for Fraud, Waste and Abuse**

**Peter H. Walsh**  
Chief of Litigation & Investigations  
Senior Deputy General Counsel  
UnitedHealth Group Incorporated (Minnetonka, MN)

**Elyssa M. Solomon**  
Litigation and Investigations Counsel  
Humana Inc. (Louisville, KY)

**Tri MacDonald**  
Chief Operating Officer and President  
Berkeley Research Group (Washington, DC)
Moderator
John C. Richter
Partner, Special Matters and Government Investigations
King & Spalding LLP (Washington, DC)

- Implementing safeguards to protect against fraud and abuse
- Understanding the civil penalties resulting from violations of ACA
  - extension of Responsible Corporate Officer doctrine
- Developing a risk adjustment model that withstands government scrutiny
- Assembling a Fraud Investigation Unit to proactively ward off instances of business misconduct
- Seeking recovery for fraudulently billed or unnecessary procedures
- Analyzing the different avenues being pursued by MCOs to reduce instances of fraud, waste and abuse
- Pursuing waiver of balance billing as a fraud counterclaim
  - understanding competing State statutes
- Proactively preparing for more providers leaving the network
- Managing the increasing number of claims brought by whistleblowers
  - preparing for government intervention
- Proving to the government arguable mistake versus outright fraud
- Assisting the government in pursuing providers who commit fraud
- Approaching the False Claims Act in a more affirmative way
- Diminishing the loss of trust stemming from a lengthy and drawn-out government investigation
- Strategies to more proactively deal with provider fraud
- Responding to increasing Congressional pressure to obliterate fraud by the MCOs

5:00 Averting and Managing Disputes Arising from Participation in Medicare Advantage Plans

Gary Reed
Associate General Counsel
Humana Inc. (Louisville, KY)

Julie Simer
Shareholder
BuchalterNemer, A Law Professional Corporation (Irvine, CA)

- Understanding the statutory and regulatory landscape for Medicare Advantage plans
- Determining Medicare Advantage Plans’ statutory rights to reimbursement
- Prosecuting Medicare Advantage Secondary Payer claims following mass tort settlements
- Medicare preemption of state law affecting Medicare Advantage Secondary Payer rights
- Removing the Medicare Advantage case to federal court
- Exhausting administrative remedies – Medicare appeals processes
- Determining reimbursement rates for non-contracted providers
- Adjusting claim submission to mitigate the risk of False Claims Act

11:15 A Good Offense is the Best Defense: Managing Non-Par Provider Waivers and Other Emerging Theories Being Tested by Providers

Mazda K. Antia
Partner
Cooley LLP (San Diego, CA)

Pierre H. Bergeron
Partner
Squire Sanders (Cincinnati, OH)

Michael H. Bernstein
Partner
Sedgwick LLP (New York, NY)

5:45 Conference Adjourns to Day 2
Andrew J. Hefty  
Partner  
Crowell & Moring LLP (San Francisco, CA)

- Determining the effect of non-par waivers of plan member deductibles and co-insurers  
  - rebuffing physician claim of “moral higher ground”
- Overcoming obstacles with alternative business models on the provider side
- Working with providers to minimize litigation as the end game
- Analyzing the increasing “un bundling” of services by the provider
- Pursuing claims against providers for patient discount practices
- Responding to contract disputes with hospitals  
  - emergency room claims disputes  
  - payment structures  
  - performance funds
- Best practices for claims management

Overpayments

- Understanding the MCO’s vs. the government’s obligation to collect an overpayment
- Notifying the payor of the reason for the overpayment
- Reporting to the government and paying back overpayments within a defined time period
- Exploring the monetary penalties for failure to report overpayments
- Tackling overcharges from out-of-network Ambulatory Surgi Centers to which in-network physicians refer members
- Preparing for increased focus from the courts

3:15  
Afternoon Refreshment Break

3:30

Addressing How MCOs can Navigate the Maze of ACA-Mandated Independent Expert Review

Anthony F. Shelley  
Member  
Miller & Chevalier Chartered (Washington, D.C.)

- Complying with state or federal external review processes
- Understanding the judicial standards of review applied in benefit claims litigation
- Reducing benefit claims litigation by specifying the proper procedures internal and external claims processes for health plans
- Preparing for litigation under ERISA if the IRO confirms the benefit denial
- Providing effective written notice to participants of their external review rights
- Considering the risk management elements of these expanded claims review requirements
- Identifying and assessing potential conflicts of interest
- Minimizing the potential of litigation over whether exhaustion requirements have been or need to be satisfied
- Clearly defining the requirements of the *de minimis* exception to avoid ambiguities

4:15  
Conference Concludes

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