



# Protocol Developed to Improve Dispute Resolution Practices in Health Plans

## Dissemination of a dispute resolution quality assessment protocol

### SUMMARY

From 1999 to 2001, staff at New York University's [Robert Wagner Graduate School of Public Service](#) and [The Mediation Group](#), a nonprofit organization in Boston, worked together to develop a protocol to help managed care organizations improve their dispute resolution practices.

### Key Results

- Project staff, in collaboration with a panel of experts and two health plans, created *Dispute Resolution in Managed Care: A Modular Self-Assessment Protocol* to help health plans identify and diagnose problem areas in their dispute resolution systems, explore the underlying causes and address them.
- Six health plans worked with project staff to test the protocol and then participated in an all-day meeting to comment on the protocol and share best practices.
- Based on advice from the health plans, project staff revised the protocol to include a section for measuring the cost impact of changes in a dispute resolution system.

### Funding

The Robert Wood Johnson Foundation (RWJF) supported this project through two grants totaling \$329,633:

- A grant of \$235,904 to the Robert Wagner Graduate School of Public Service for development of the protocol.
- A grant of \$93,729 to The Mediation Group to field test the protocol.

## THE PROBLEM

Managed care organizations (health plans) face a multitude of conflicts, disputes and grievances. Disputes may arise out of mistakes made by staff, poor communication to members about their rights and responsibilities, difficult questions of contract interpretation or inaccurate assumptions about a member's medical condition. While all health plans have systems in place to resolve disputes, they vary in their effectiveness.

When RWJF made these grants, passage of federal managed care legislation involving a broadened right to sue managed care organizations remained on the agenda, making improved dispute resolution systems critical to the health care industry. This project offered an important tool to help patients and managed care organizations solve problems without resorting to the legal system.

## THE PROJECT

With the first grant from RWJF (ID# 037469), project staff at New York University's Robert Wagner Graduate School of Public Service and the Mediation Group, a nonprofit organization in Boston, worked together to create *Dispute Resolution in Managed Care: A Modular Self-Assessment Protocol*. This interactive tool assists a health plan to identify and diagnose problem areas in its dispute resolution system, explore the underlying causes and address them. To develop the protocol, project staff:

- Conducted an extensive literature search, including a review of state, local, and federal regulations, and two health plans' internal documents and materials for members.
- Consulted regularly with representatives of two major health plans—one in the Boston area and one in New York City—to understand the plans' dispute resolution processes fully.
- Solicited advice and feedback from a panel of experts in managed care dispute resolution (see [Appendix 1](#) for list of panel members).

Under the second grant (ID# 043617), project staff tested the protocol with six nonprofit health plans—including both employer- and Medicaid-sponsored health plans—selected from different geographic areas (see [Appendix 2](#) for a list of participating plans). Before visiting each health plan, project staff researched and analyzed relevant laws and regulations in that state.

Staff from the Mediation group facilitated use of the protocol by an interdisciplinary work group at each health plan. Project staff then convened for an all-day meeting to gather feedback from project participants and develop best practices. They also solicited comments on the protocol from representatives of consumer advocacy groups and regulators.

## RESULTS

Project staff:

- **Developed *Dispute Resolution in Managed Care: A Modular Self-Assessment Protocol*.** For the protocol, several functions—the grievance process, the internal appeals process, a customer service department and external review processes—make up a "dispute prevention and resolution system."

The protocol focuses on four objectives for the system: efficiency and effectiveness, fairness and integrity, member satisfaction and retention, and organizational feedback and learning. To use the protocol, a health plan assembles a work group of six to 15 people from different departments—including those whose primary function is not dispute resolution, such as utilization review, risk management, marketing and sales—to examine all of the processes in place for preventing, addressing and resolving all types of member disputes.

The protocol consists of five inter-related modules:

- *Diagnostic scenarios* challenge work groups to collaborate across departments to analyze their current policies and procedures. Scenarios are based on examples taken from actual disputes, such as: "A member loses some of her teeth as a result of covered chemotherapy treatments. She has no dental benefits but other side effects of her chemotherapy have been treated without question by the plan. What is the process when the member asks to have her teeth replaced? What is the result? What if the member is a child?"
- *Diagnostic questions* prompt work groups to look from different and new angles at current policies and practices and to analyze their collective assumptions about how well their systems are working. Some examples are: "Is there accountability and openness in the dispute resolution system?" and "Is it your sense that the plan does a good job sorting out simple and complex problems?"
- *Exploratory tests* help work groups dig deeper into problem areas, and explore how well the dispute resolution system performs on various measures. One test to examine responsibility and accountability is: "Pick ten cases in which an initial denial was later overturned at a higher level. See if you can determine whether accuracy was a significant factor in any of these cases. For example, did someone from sales or from an employer communicate unclearly to a member or provide inaccurate information about a coverage question?"
- *Promising practices* gives suggestions for improving problem areas, derived from the grantee organizations' study of dispute resolution and from an American Bar Association project, *Understanding Health Plan Dispute Resolution Practices*, funded in part by RWJF (see [Program Results Report](#) on ID# 033592).
- *Individualized analysis* encourages work groups to create their own questions, tests, scenarios and/or work plans to respond to identified problems.

Project staff also:

- **Tested the protocol on-site at six health plans.** Each of the plans put together an interdisciplinary group to work through the first two sections of the protocol. Three of the plans went on to conduct a more detailed analysis guided by the protocol.
- **Hosted an all-day meeting to gather feedback from the health plans that tested the protocol.** At the September 2002 meeting in Boston, 18 participants shared common concerns and best practices and critiqued the protocol, both as a tool and as a process.
- **Revised the protocol, based on responses and advice from the health plans.** In particular, the health plans noted the importance of being able to track how changes in the dispute resolution systems affect costs. This led to a reworking of the cost analysis section of the protocol (under Exploratory Tests). Participants noted that the protocol works best with an outside facilitator. Based on this input, project staff decided to offer the protocol to health plans with facilitation rather than as a stand-alone product. Project staff also added the health plans' "best practices"—innovations that worked well to improve their dispute resolution systems.
- **Developed a "Web Board" to facilitate ongoing communication among the plans.** The website (no longer in existence) allowed for both private and threaded conversations among project participants (see the [Bibliography](#)).

## Communications

Project staff presented the protocol model at the New England Association for Conflict Resolution annual conference in November 2002, and at a poster session at the 9th Annual Picker Institute's International Symposium in July 2003. (The Picker Institute works with health providers to evaluate the quality of their services from the patient's perspective.)

Representatives from two health plans teamed with the Mediation Group to present their experiences in using the protocol at the American Association of Health Plans' "Institute and Display Forum" in June 2003. (See the [Bibliography](#) for details.)

## LESSONS LEARNED

1. **Projects that allow staff to collaborate across departments add value to the managed care organization.** Staff at health plans rarely have the opportunity to exchange ideas with colleagues in other departments. Participants in this project thought the protocol's greatest strength was its requirement that individuals from different departments and backgrounds work together. (Project Director/Mediation Group)

2. **A good dispute resolution system, by addressing actual and potential disputes before they escalate, saves both organizational and consumer resources.** (Project Director/Mediation Group)
3. **To implement significant, sustainable changes to a dispute resolution system, top-level management must buy into any systems change effort.** The protocol requires that at least one senior level person join the work group. Where this commitment exists, health plans can make and sustain changes in their systems more easily. (Project Director/Mediation Group)
4. **Avoid one obvious barrier to full participation in field trials by inviting health plans that are not market competitors.** The plans participating in this project felt free to communicate openly and honestly partly because they were geographically diverse and not competing with each other. (Project Director/Mediation Group)

## AFTERWARD

The Mediation Group continues to consult with leaders of the Tufts Health Plan and HealthPartners to implement the protocol further at those sites. The Mediation Group will facilitate use of the protocol with interested health plans.

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Grant ID# 37469, 43617

Program area: Quality/Equality

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## APPENDIX 1

### Dispute Resolution Protocol Advisory Panel

*(Current as of the end date of the program; provided by the program's management; not verified by RWJF.)*

**Steve Hitov, JD**  
Managing Attorney  
National Health Law Program  
Washington, D.C.

**Nan D. Hunter, JD**  
Professor of Law  
Brooklyn Law School  
Brooklyn, N.Y.

**Naomi Karp, JD**  
Associate Staff Director  
American Bar Association Commission on  
Legal Problems of the Elderly  
Washington, D.C.

**Eleanor D. Kinney, JD, MPH**  
Samuel R. Rosen Professor of Law at the  
Indiana University Law School  
Co-Director, Center for Law and Health  
Indianapolis, Ind.

**Jane Perkins, JD, MPH**  
Legal Director  
National Health Law Program  
Chapel Hill, N.C.

**Erica F. Wood, JD**  
Associate Staff Director  
American Bar Association Commission on  
Legal Problems of the Elderly  
Washington, D.C.

## APPENDIX 2

### Health Plans that Tested the Protocol

*(Current as of the end date of the program; provided by the program's management; not verified by RWJF.)*

**Avmed Health Plan**  
Gainesville, Fla.

**Geisinger Health Plan**  
Danville, Pa.

**Health Alliance Plan**  
Detroit, Mich.

**HealthPartners, Inc.**  
Minneapolis, Minn.

**MetroPlus Health Plan**  
New York, N.Y.

**Tufts Health Plan**  
Waltham, Mass.

## BIBLIOGRAPHY

(Current as of date of the report; as provided by the grantee organization; not verified by RWJF; items not available from RWJF.)

### Books

*Dispute Resolution in Managed Care: A Modular Self-Assessment Protocol, Second Edition.* New York: Mediation Group and New York University, 2002.

### Articles

Honoroff B and Honeyman C. "System Disorders: Trying to Build Resolution into Managed Care." *Alternatives to the High Cost of Litigation*, a publication of the CPR Institute for Dispute Resolution, 19(9): 212–233, 2001.

### Grantee Websites

[www.publicdisputes.net](http://www.publicdisputes.net) (no longer in existence) was a website developed by the Mediation Group for registered users from health plans to promote an exchange of information and ideas on issues relevant to their dispute resolution systems. Boston: Mediation Group.