

Out-of-Network Medical Costs for the Children and Mediation



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Without a doubt, medical insurance and medical expenses consume a significant portion of household budgets, and that number has been increasing at a greater rate than income in recent years. For many households, those expenses can easily exceed 10% of annual income, and for self-employed individuals, that number is often double. At the current time, most plans are offering decreasing flexibility regarding choice of health care providers and assessing severe financial penalties for choosing an out-of-network provider.

Some plans no longer provide coverage for out-of-network providers, while others have specific rules. I urge clients to check with their insurance companies regarding their specific procedures when going out-of-network, including whether pre-certification or pre-authorization is required before the initial visit.

For parties getting divorced, addressing their children's future health care costs and the issue of going out-of-network can be an essential part of the divorce mediation process, especially if the children have special medical needs. These parents tend to ask the question - when is it appropriate to take your child to an out-of-network health care provider? If both parties agree, there is no need for further inquiry. However, if there is a difference in opinion, then the time spent on this issue, and subsequently including this information in the Memorandum of Understanding (MOU) can reduce conflict and unnecessary future litigation.

Mediators are trained to answer questions with questions. My first question to the clients is what do they feel is appropriate? The answers I generally hear are as follows:

- ***What is more important than our child's health?***
- ***Why should cost BE a consideration?***
- ***My child has been seeing Dr. X since he was born. He was originally on our insurance, but since I changed jobs, he is now out-of-network. Our child has an important relationship with Dr. X. Why should we have to change?***
- ***We go to an in-network general practitioner, but my child goes to an out-of-network specialist because our child is doing so much better with him/her than the in-network provider. We only go to the specialist twice a year.***

- ***If your child were in crisis, what would you do?***

In addressing why cost is a factor, I ask the clients to add up the number of visits the child has on an annual basis and the costs, within network and out-of-network. What are the costs/savings of going in-network? It is human nature to spend other people's money more extravagantly than we spend our own; having both parents share some responsibility for the child's medical costs can raise financial awareness about the benefit of cost being a factor in medical decisions.

Most divorce agreements call for the clients to pay for out-of-pocket medical costs based in some ratio. In New Jersey, the child support guidelines provide for the custodial parent paying the first \$250 per child, per year, with the balance of costs shared based on percentage of net income (from line 6 of the New Jersey child support guidelines). It is important to note that in New Jersey, since alimony is a component of income for calculation of child support, there tends to be parity of net incomes between the parties following a divorce for longer-term marriages.

When addressing the situation of a doctor the child has a relationship with, and is no longer in-network, parents have many avenues to explore. You can send the physician a request to join your health care plan. Your doctor should be willing to accept what insurance would pay (plus your copay), for that to work. Sometimes, a doctor is in network at one location, while out-of-network at another, so you may be able to see your provider in-network by choosing a different location. Within the same practice, one specialist may be out-of-network, while another may be in-network; you may still be able to see your preferred provider, depending on when you schedule your appointment.

I ask the question - if your physician retired today, what would you do? The answer is usually that they would ask the physician for names of other providers they trust. Your out-of-network provider may have an in-network provider he might recommend (given that he is not retiring).

If you live in or near a large city, you should be able to find in-network specialists for most common childhood diseases. If there is not another network provider in your geographic area, your health insurance company may permit the visit to the out-of-network specialist to be treated as in-network with their permission. You should be able to explain to your insurance company why it is medically necessary for your child to see this specific health care provider.

When parents have a child with life threatening medical needs, I see clients in greater agreement on the use of out-of-network specialists. Visits with these specialists may be limited, but the specialist's history with your child may be very valuable in his/her treatment. I also see parents more willing to go out-of-network for mental/behavioral health issues if their child is in crisis, or if the child needs unusual or specialized surgery. You can always ask for mediation with your insurance company if you have a disagreement with them regarding coverage or choice of providers.

If parents have a conflict about out-of-network usage, sometimes the solution to this issue is an agreement that when there is an in-network provider, but one parent wants to go out-of-network, the parents will have a different payment arrangement for these situations. As an example, the parent who desires to stay in-network might pay no more for their share than if the child has gone in-network, with the other parent paying the difference, or if the parent who earns less desires to go out-of-network, then the parties share the copays equally, rather than based on percentage of income.

It is clear that there is no one size fits all answer to the question of out-of-network health care providers. Each client has a different financial situation, and their children have different medical needs. Astute mediators will question out-of-network costs, especially for children with special medical needs, during the divorce process, and should leave the door open to clients returning to mediation, post-divorce, to address their children's changing medical needs.



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