

RHEUM FOR ACTION

## Employers' self-funded health plans can leave rheumatology patients vulnerable

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### Rheumatology News

IN COLLABORATION WITH  **CSRO**  
COALITION OF STATE RHEUMATOLOGY ORGANIZATIONS

Health care costs are skyrocketing for everyone! For employers, the cost of health insurance is second only to their payroll expense. Per person spending in employer plans grew by 22% between 2015 and 2019. This outpaced inflation and economic growth. Affording health insurance for business owners has become more and more difficult, bordering on desperation for some. Consequently, they are looking for ways to be more efficient in their health care spending. One way is through self-funding their employees' health care costs. This means that the employer directly pays for the care of their employees. While it has always been thought this was just for very large employers, it is becoming more common with smaller businesses. There is more flexibility and oversight with self-funded plans, and the employer can dictate exactly what benefits are covered within the bounds of the law. While this can make it easier to exclude certain therapies and even institute site-of-care restrictions, it also can make the employer vulnerable to health insurance companies, pharmacy benefit managers (PBMs), and third-party administrators (TPAs) that promise

## Recently enacted state laws often don't apply

Because employers who self-fund the health care for their employees are increasingly desperate to save money, they will often agree to plans that are less expensive but offer suboptimal care, particularly for patients with chronic diseases requiring expensive medicines. Many employers are not fully informed of the ramifications of these policies, so the Coalition of State Rheumatology Organizations is creating an educational employer tool kit that not only highlights the importance of disease control for their employees with rheumatic conditions but also outlines the pitfalls and misinformation that may be given to them by the insurance companies, PBMs, and other third parties that administer their health plan.



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Policies that sacrifice patient care of course are not exclusive to certain self-funded health plans. The CSRO's [Payer Issue Response Team \(PIRT\)](#) <[https://csro.info/forms/insurance\\_notification.php](https://csro.info/forms/insurance_notification.php)> receives complaints daily from rheumatologists around the country regarding both the [Employee Retirement Income Security Act](#) <<https://www.dol.gov/general/topic/health-plans/erisa#:~:text=ERISA%20requires%20plans%20to%20provide,to%20get%2>

researches solutions that can include writing letters to the health insurance companies, employers, and departments of insurance, as well as applying enacted state legislation that overrides some of the detrimental policies. (Utilization management legislation, which has passed in many states, can be easily found on CSRO's map tool <[https://csro.info/non\\_cms\\_pages/legislation-in-your-state.php](https://csro.info/non_cms_pages/legislation-in-your-state.php)> .) These state laws can help patients with everything from harmful step therapy and nonmedical switching policies to accumulator adjustment programs denying application of copay card value to their deductibles. Unfortunately, these laws do not apply to most self-funded employer health plans, which are preempted by ERISA. Consequently, those employees are not protected from harmful changes in formularies and other policies.

## **Forced 'white bagging' in self-funded plans**

Mandated "white bagging" has become a favorite for health plans covered by large insurance companies, which say that the practice is less expensive than what the physician would charge for the medication. White bagging takes away the ability of the physician to "buy and bill" infusibles that are given in their office. While some rheumatologists may accept this, there are many who do not accept infusible medications coming from another source. Often the health plan will tell the rheumatologist they must accept the white bagging or transfer the patient to another rheumatologist who will. Clearly, many health plans and TPAs do not understand the bonds that are created over the years between rheumatologists and their patients. Ironically, the price of the white-bagged medication charged to the employer has been shown often to be higher than what the physician would have charged.

Some TPAs also convince employers to carve out specialty medications from their policy entirely, leaving the employee uninsured for these meds. These TPAs then attempt to obtain the medications from the manufacturers, foundations, compounding pharmacies, and even other countries for free or highly discounted prices. Even if obtained at no cost, the TPA will charge the employer a percentage of the list price or fee for obtaining it. On the surface, this may seem like a good idea, but there are a number of issues with this, including some that are legally suspect. First of all, uninsuring employees for certain medications to take advantage of patient assistance programs from manufacturers and foundations could be viewed as perfectly legal and perfectly unethical. The legality of this practice is questionable when these companies pretend to be the patient when applying for the assistance or present compounded medication as coming from the manufacturer, or if the TPA obtains the medication from outside the country. Additionally, many employers end up paying 20% of the list price of a medication for a service that physicians provide at no cost for uninsured patients.

## **Educating employers**

CSRO's employer tool kit hopes to educate employers with self-funded health plans about the pitfalls of some of these policies and offers suggestions on how to best navigate these issues for employees with rheumatic diseases. We are hoping to launch this tool kit to small to medium business groups in the near future.

Advocacy is more than just contacting health insurers and those who make our laws and regulations. Although that is important, reaching out to those who employ our patients can be integral to ensuring they get the best care.

*Government Affairs and its immediate Past President, as well as past chair of the Alliance for Safe Biologic Medicines and a past member of the American College of Rheumatology insurance subcommittee. You can reach her at [rhnews@mdedge.com](mailto:rhnews@mdedge.com).*

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