

K&L GATES

TRIAGE: RAPID LEGAL LESSONS FOR BUSY
HEALTH CARE PROFESSIONALS



Segment 1 of 3

Payor-Provider Litigation 101

Lauren Garraux

IN-NETWORK VS. OUT-OF-NETWORK PROVIDERS

<u>In-network</u>		<u>Out-of-network</u>
Provider agreement or other written contract with payer	Written contract?	No provider agreement or written contract
Pre-negotiated reimbursement rates	Rates?	No pre-negotiated reimbursement rates
Contract law	Basis for challenging payer reimbursement decisions?	Increasingly, ERISA

ERISA PREEMPTION

- Affects the types of claims a provider may bring (ERISA claims vs. state common law/statutory claims)
- Affects where the provider must bring them (federal court vs. state court)
- Is a frequently litigated procedural issue that can delay judgment on the merits

"RIGHT TO PAYMENT" VS. "RATE OF PAYMENT"

- “Right to payment” claims
 - Relate to coverage and benefits under a plan
 - Claims denials
 - Preempted by ERISA
- “Rate of payment” claims
 - Relate to computation or amount of payment
 - Partial payments
 - May not be preempted
- Hybrid claims
 - Generally preempted

Today's Presenter



Lauren Garraux

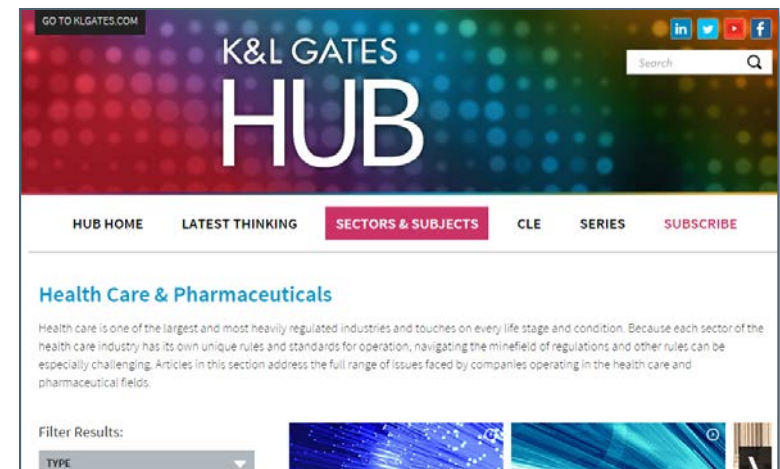
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