

RHEUM FOR ACTION

## Beware patients' health plans that skirt state laws on specialty drug access

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IN COLLABORATION WITH  CSRO  
COUNCIL OF STATE RHEUMATOLOGY ORGANIZATIONS

There is a dangerous trend in our country in which employers, seeking to reduce health plan costs they pay, enter into agreements with small third-party administrators that “carve out” specialty drug benefits from their self-funded health insurance plan. What employers are not told is that these spending reductions are accomplished by risking the health of their employees. It is the self-funded businesses that are being preyed upon by these administrators because there is a lot of money to be made by carving out the specialty drugs in their self-funded health plan.



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expenses don't outpace revenue if I want to keep my doors open. One of the largest expenses for any business is health insurance. My private rheumatology practice uses a fully insured health plan. In a fully insured plan, the insurer is the party taking the financial risk. We pay the premiums, and the insurance company pays the bills after the deductible is met. It may cost more in premiums than a self-funded plan, but if an employee has an accident or severe illness, our practice is not responsible for the cost of care.

On the other hand, large and small businesses that are self-funded cover the health costs of their employees themselves. These businesses will hire a third-party administrator to pay the bills out of an account that is supplied with money from the business owner. Looking at the insurance card of your patient is one way to tell if they are covered by a fully insured or self-funded plan. If the insurance card says the plan is "administered by" the insurer or "administrative services only," it is most likely a self-funded plan. If their insurance card states "underwritten by" the insurer on the card then it is likely a fully insured plan. This becomes important because self-funded plans are not subject to the jurisdiction of state laws such as utilization management reform. These state laws are preempted from applying to self-funded plans by the Employee Retirement Income Security Act of 1974. The *Rutledge v. Pharmaceutical Care Management Association* Supreme Court case took up the question of whether certain state laws impermissibly applied or were connected to self-funded plans. The ruling in favor of Rutledge opens the door that certain state legislation may one day apply to self-funded plans.

## **Specialty drug benefit carve outs are not in best interests of employees, employers**

drug benefits from the larger administrator of the plan by promising huge savings in the employer's specialty drug spending. Two such companies that have come to the attention of the Coalition of State Rheumatology Organizations are Vivio Health and Archimedes. CSRO has received numerous complaints from rheumatologists regarding interference from these two entities with their clinical decision making and disregard for standard of care.

Vivio's website reveals a disturbing approach to cost reduction. The [website <https://viviohealth.com/product/>](https://viviohealth.com/product/) states that Vivio profiles physicians through ProPublica and Open Payments to determine if they are prescribing for the right reason and not for self-interest. This serves as an attempt to set up mistrust of the physician by the employer. Vivio's website also states that the Food and Drug Administration has declining standards for approval of drugs, and consequently many approved drugs should be considered "experimental." They say that business owners should not have to pay for "experimental" treatments. Through conversation with Vivio, it appears they believe that oncologists could be replaced by a primary care physician with the right algorithm.

Many of Vivio's egregious behaviors are enumerated in [our letter to Vivio <https://csro.info/UserFiles/file/CSRO\\_Memo\\_Recent\\_Complaints\\_about\\_Vivio\\_Practices.pdf>](https://csro.info/UserFiles/file/CSRO_Memo_Recent_Complaints_about_Vivio_Practices.pdf) : outrageous nonmedical switches, mandatory biologic tapering, and site of care changes. In all of the complaints that we received, Vivio attempted to switch patients to the same infusible medication, Renflexis, and also mandated white bagging, which means the payer has a specialty pharmacy ship a patient's medication directly to the physician's office for administration. This switch was made regardless of the mechanism of action or route of administration of the drug that had stabilized the patient. Peer-to-peer reviews with a retired radiologist led to routinely denied appeals and would

Our letter resulted in two conversations with Vivio. Vivio insisted that it was using American College of Rheumatology guidelines and comparisons between drug studies to make these decisions. The company stated that patients can be switched to any drug that has the same ACR 20, 50, and 70 response criteria outcomes as the drug that they are presently taking, even though these sorts of comparisons of results across completely different studies are invalid for a number of reasons, including because they do not have the same patient populations, protocols, and inclusion/exclusion criteria. These are dangerous policies and thus far we have not been able to find any rheumatologists who have gone along with these demands.

Companies such as Vivio are spreading, and employers are unaware that their policies are only paying lip service to “individualized care” while maintaining an approach to patient care that is focused only on cost cutting. Indeed, Archimedes represents one such metastasis. Their practices are similar to those of Vivio and of which CSRO has received complaints. Archimedes has similarly attempted to mandate white-bagging for the enrollees it manages and switch stable patients for nonmedical reasons to an entirely different molecule and mechanism of action.

Business owners do not understand the harm that these policies can cause their employees. This harm increases downstream medical spending as a result of loss of control of disease activity.

This is a call to action for all advocates and advocacy groups to get in the room with employer/business groups and explain how these third-party administrators, carving out specialty drug benefits, can ultimately cause physical harm to employees and increase monetary cost to the employer in the long run. Rheumatology as a specialty needs to educate employers and work

<https://csro.info/UserFiles/file/CSROEdwardJonesHRletter.pdf> it used successfully with the human resources department of Edward Jones to effect a change in its policies on this matter, which you are welcome to use to craft your own to businesses.

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