



**HEALTHCARE PROVIDERS PROFESSIONAL LIABILITY COVERAGE PART
CASE MANAGEMENT SERVICES LIABILITY ENDORSEMENT - NEW YORK**

In consideration of the additional premium paid, it is agreed as follows:

This endorsement attaches to the **PROFESSIONAL LIABILITY COVERAGE PART** and shares the Professional Liability limits of liability stated on the **CERTIFICATE OF INSURANCE**.

I. COVERAGE AGREEMENT

The Section entitled **COVERAGE AGREEMENTS** is amended to add the following additional coverage agreement:

CASE MANAGEMENT SERVICES LIABILITY

We will pay all amounts, that **you** become legally obligated to pay as a result of a **case management services claim** that arises from a **case management non-medical incident**. The limit of liability is shared with, and not in addition to, the Professional Liability limit of liability stated on the **CERTIFICATE OF INSURANCE**. In addition to the limit of liability, we will also pay **claim expenses**.

II. DEFINITIONS

Solely for the purpose of the coverage provided by this endorsement, the Section entitled **ADDITIONAL DEFINITIONS** is amended to add the following new definitions:

“**Case management**” means solely a systematic approach to:

1. identifying high risk/high cost patients;
2. assessing opportunities to coordinate care;
3. assessing and coordinating treatment options and services;
4. developing treatment plans to improve quality and efficacy of care; and
5. managing a patient's total care to ensure optimum outcome.

“**Case management non-medical incident**” means an act, error or omission in the performance of **case management services**, which results in **case management services damages**.

“**Case management services**” means the rendering of **case management** or **utilization review**, performed by **you** for others.

“**Case management services claim**” means a **claim** arising out of a **case management non-medical incident**.

“**Case management services damages**” means any compensatory sum and shall include judgments, awards and settlements, provided any settlement is negotiated with our written consent and prejudgment interest awarded against **you** on that part of the judgment we offer to pay. If we make an offer to pay the applicable limits of liability, we will not pay any prejudgment interest based on that period of time after the offer.

“**Case management services damages**” shall not include:

1. the return or restitution of fees, or any expenses or costs paid, or incurred by **you**;



2. civil or criminal fines, sanctions, penalties, or forfeitures, whether pursuant to law, statute, regulation or court rule, and injuries that are a consequence of any of the foregoing;
3. punitive or exemplary amounts;
4. the multiplied portion of multiplied awards;
5. any matter, sum or award that is uninsurable under the law pursuant to which this Policy shall be construed;
6. injunctive or declaratory relief

“Utilization review” means solely:

1. recommendations concerning professional practice patterns of others for controlling patient costs;
2. evaluations of the professional practice patterns of others for controlling patient costs or imposing any penalties;
3. determinations regarding health care services to be provided by others to any participant of healthcare insurance; or
4. determination of benefits paid by others to any participant of a health care insurance plan.

III. EXCLUSIONS

Solely for the purpose of the coverage provided by this endorsement, the Section entitled **EXCLUSIONS** is amended to delete all exclusions and replace them with the following:

We will not defend any **claim**, nor pay any **case management services damages** or **claim expenses**, based on, arising out of, or relating to:

- A. **Injury** or **damage** resulting from a **medical incident, Good Samaritan incident, placement services incident** or **personal injury**;
- B. any actual or alleged violation of the Employee Retirement Income Security Act or any similar state or federal act in connection with any employee benefit plan, as defined in 29 U.S.C. 1002, or “employee stock ownership plan” as defined in 26 U.S.C. 4975 of the **named insured** or any employer affiliated with the **named insured** through common majority ownership or control;
- C. the commingling, misappropriation or improper use of, funds; or arising out of, or in any way involving the gaining of any personal profit or advantage to which **you** are not legally entitled;
- D. based upon, directly or indirectly arising out of, or in any way involving the participation in, design or solicitation of any structured settlement proposal;
- E. any actuarial act, error or omission;
- F. any services rendered in the capacity as a lawyer or any mismanagement of legal affairs;
- G. **your** recommendation, approval or disapproval of any employee benefit plan assets;
- H. a governmental intervention, cease or desist order, or the insolvency, receivership, bankruptcy or inability to pay of any organization in which **you** have, directly or indirectly, placed or obtained coverage or in which **you** have, directly or indirectly, placed the funds of a client or account;



- I. any mechanical or electrical failure, including any electrical power interruption or surge, brownout, blackout, short circuit, over voltage, induction, or power fluctuations;
- J. the failure to prevent unauthorized access of an electronic system or program;
- K. the design, programming, distribution or sale of any computer system or program;
- L. the unauthorized use of confidential or proprietary information provided to **you** by a third party;
- M. any placement or referral of any insurance or bond;
- N. any notarized certification or acknowledgment of a signature without the physical appearance before **you** of the person who is, or claims to be, the person signing the instrument;
- O. any inability or failure to pay, collect, or safeguard funds, including, but not limited to, mismanagement of estates, properties, assets, or financial affairs;
- P. the lack of good faith or fair dealing in the handling of any **claim** or obligation arising out of or under an insurance contract or benefit plan. We shall provide **you** with a defense of such **claim** unless or until such lack of good faith or fair dealing has been determined by any trial verdict, court ruling, regulatory ruling or legal admission, whether appealed or not. Such defense will not waive any of our rights under this policy. In such case, we will pay only **claim expenses**. Criminal proceedings are not covered under this policy regardless of the allegations made against **you**;
- Q. any dishonest, fraudulent, criminal, malicious or intentional act, error or omission by **you**. We shall provide **you** with a defense of such **claim** unless or until the dishonest, fraudulent, criminal, malicious or intentional act, error or omission has been determined by any trial verdict, court ruling, regulatory ruling or legal admission, whether appealed or not. Such defense will not waive any of our rights under this policy. In such case, we will only pay **claim expenses**. Criminal proceedings are not covered under this policy regardless of the allegations made against **you**;
- R. by or on behalf of **you** against any other of **you**;
- S. discrimination, humiliation, harassment, or misconduct that includes but shall not be limited to **claims** based on an individual's race, creed, color, age, sex, national origin, religion, handicap, marital status or sexual preference;
- T. any liability that **you** assume under any contract or agreement. This exclusion does not apply to:
 - 1. liability **you** assume under a contract with a Health Maintenance Organization, Preferred Provider Organization, Independent Practice Association, or any other similar organization; but only for such liability as is attributable to **your** alleged negligence; or
 - 2. a warranty of fitness or quality of any therapeutic agents or supplies **you** have furnished or supplied in connection with treatment **you** have performed;
- U. any liability **you** have for a business or profession other than that named on the **CERTIFICATE OF INSURANCE**;
- V. liability resulting from **case management services you** provide while **your** license or certification to practice is suspended, revoked, or no longer valid;
- W. actual or alleged involvement in any:
 - 1. federal or state anti-trust law violation; or



2. agreement or conspiracy to restrain trade.

This exclusion does not apply to **claims** arising from **your** activity as a member of any committee, panel, or board which provides underwriting or claims advice or recommendations, provided **your** activity is within the scope of the committee's, panel's, or board's established guidelines;

- X. any act of sexual intimacy, sexual molestation or sexual **assault**. We shall provide **you** with a defense of such **claim** unless or until such act has been determined to have occurred, by any trial verdict, court ruling, regulatory ruling or legal admission, whether appealed or not. Such defense will not waive any of our rights under this Policy. Criminal proceedings are not covered under this Policy regardless of the allegations made against **you**.

IV. ADDITIONAL EXCLUSION – OCCURRENCE

The following applies solely to the extent that this endorsement is attached to the PROFESSIONAL LIABILITY COVERAGE PART – OCCURRENCE:

We will not defend any **claim** nor pay any **Case management services damages**, including **claim expenses**, based on, arising out of, or relating to any **case management non-medical incident** in the performance of **Case management services**, that happened before the effective date of this policy.

V. ADDITIONAL EXCLUSION – CLAIMS MADE

The following applies solely to the extent that this endorsement is attached to the PROFESSIONAL LIABILITY COVERAGE PART – CLAIMS MADE:

We will not defend any **claim** nor pay any **case management services damages**, including **claim expenses**, based on, arising out of, or relating to any **case management non-medical incident** in the performance of **Case management services**:

1. that happened:
 - a. before the prior acts date; or
 - b. after the prior acts date if, on the inception date of this policy, **you** knew or should have known that it would result in a **claim**; or
2. which on the inception date of this policy:
 - a. is the subject of a reported case management non-medical incident; or
 - b. pending **claim** or proceeding; or
 - c. is a paid **claim**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.