

Reprinted from:

# THE PROVIDER

Vol. 34 - No. 2

The Newspaper of the Providers' Council

Februaury 2013

## Forum focuses on ICO contract, compliance issues



*Attorneys Jennifer Gallop and Robert Griffin of Krokidas & Bluestein discuss contracting with ICOs during a recent forum.*

Legal and compliance experts detailed a number of issues for providers to consider as they prepare for the state's Dual Eligible Demonstration at a forum Jan. 31 cosponsored by the Providers' Council and the Association of Developmental Disabilities Providers.

Council President and CEO Michael Weekes, in welcoming the audience, stressed that the information being presented was not only beneficial for those negotiating with ICOs, but for the many interested in fiscal intermediary relationships.

During the forum, "Significant Legal and Compliance Considerations in Contracting with ICOs," attorneys Robert Griffin and Jennifer Gallop from the law firm of Krokidas & Bluestein, and Ken Bates, the vice president of behavioral health and day supports for Advocates, Inc., presented their experiences and advice to nearly 80 executives and finance officers at Plymouth Church in Framingham.

At least one-third of the executives in attendance said they have already received contracts and/or met with one or more of the six ICOs (integrated care organizations) the state chose on Nov. 2. The demonstration is slated to begin this summer.

Because rates for services have not yet been set, some of the contract language is often broad, and Gal-

lop continually stressed the need for executives to try to negotiate a favorable termination clause.

"As this is a new demonstration, you want to have a clear termination clause," Gallop said. "That should be the first thing you read."

Griffin added the contracts also contain provider requirements, which must be complied with, regardless of ICO contracting. Two such measures include reviewing the Excluded Providers lists from the Office of the Inspector General (OIG) and General Services Administration (GSA) every 30 days, and returning overpayments to Medicare/Medicaid. The list should be checked for all staff members, board members and contractors, including companies with which providers have contracts.

Providers who are found to have intentionally violated the Excluded Providers list – employing someone who has committed a felony against Medicare or Medicaid or a medical professional who has lost his or her license – could be thrown out of MassHealth and Medicare. Even an unintentional violation can result in a financial penalty against the organization.

Bates, of Advocates, reminded the audience that different ICOs may set different rates for the same services. Rates could also vary by region, he added.

"There's a lot we need to understand and ask the ICOs," Bates said. "Establish relationships with the ICOs, invite them (to your organization), talk to them, get to know them."

Bates also noted that providers should expect changes in utilization management and data management, and said that an organization can use strong quality management practices to demonstrate its value when negotiating rates.

All three presenters urged executives to be familiar with the ICOs' service guidelines and policies and procedures before signing contracts.

"For companies already providing services look it up (their current policies/ procedures)," Gallop said. "They may not be the ultimate policies/procedures that are in the final contracts," but will provide a baseline.

*For more information, please visit [www.providers.org](http://www.providers.org).*