



→ Xavier Baker

Partner

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Xavier Baker is a partner in the Corporate Practice Group in the Washington, D.C. office and member of the firm's Healthcare team.

Areas of Practice

Xavier advises clients on healthcare insurance and managed care regulations, investigations, transactions, and litigation. He counsels national and regional health insurers, pharmacy benefit managers, care coordination organizations, and other specialty healthcare service providers and trade associations on complex state and federal regulatory issues involving Medicare, Medicaid, the Federal Employees Health Benefits Program, TRICARE, and commercial health insurance. Clients look to him for cutting-edge strategic counseling, risk management, regulatory policy, and government affairs assistance to meet the challenges posed by this relentlessly evolving environment.

Xavier helps managed care organizations and providers design and implement benefits and services that both comply with the Mental Health Parity and Addiction Equity Act and improve access to behavioral health care. He counsels clients undergoing state market conduct exams, government investigations by states attorneys general and the federal Department of Labor, and other audits and inquiries related to compliance with the Mental Health Parity and Addiction Equity Act and similar state laws. Xavier has extensive experience helping health plans develop internal auditing procedures, compliance documentation, and disclosure materials.

In addition, Xavier advises health plans in response to investigations by the U.S. Department of Health and Human Services Office of Civil rights concerning non-discrimination requirements under Affordable Care Act Section 1557. Xavier has represented plans in response to Section 1557 investigations regarding benefit design and non-medical transportation. He also assists health plans structure joint ventures, transactions, and other arrangements to mitigate Section 1557 compliance risks.

Xavier also counsels health plans and providers on medical loss ratio reporting, government audits, and strategic considerations. And he has assisted health plans and intermediary organizations with state HMO, utilization management, TPA, and other licensure requirements for Medicare Advantage and commercial health insurance products.

Further, Xavier has represented trade associations in *amicus* briefs before the United States Court of Appeals for the Fifth Circuit and the Supreme Court of the United States regarding the constitutionality of the Affordable Care Act.

In addition, Xavier has an active pro bono practice. He filed an *amicus* brief cited in the majority opinion in *Whole Woman's Health v. Hellerstedt*, 579 U.S. ___ (2016). He also successfully represented a Rwandan immigrant seeking political asylum, helped her to obtain her Green Card, and reunited her with her children through derivative asylum. Xavier assisted a special advisory committee regarding the D.C. Medical Liability Captive Insurance Company. He has used his health care regulatory experience to provide health care policy analysis on a diversified set of public policy initiatives to combat pediatric asthma in Washington, D.C. And Xavier has assisted pro bono clients submit comments to proposed rulemakings affecting a variety of healthcare issues.

Xavier has written and presented on the Affordable Care Act's exchanges, optimizing medical loss ratio performance across commercial and federal health care programs, the Mental Health Parity and Addiction Equity Act, Medicaid managed care, and value-based payment arrangements, among other topics.

Experience

- Analysis of emerging regulatory issues under the Affordable Care Act on behalf of health insurers including medical loss ratio compliance risks, compliance with the annual excise tax on health insurers, premium increase and rate review, and other emerging issues.
- Representing a managed care organization in response to multiple investigations by the U.S. Department of Health and Human Services Office of Civil Rights regarding compliance with non-discrimination requirements under Affordable Care Act Section 1557.
- Representing a managed behavioral health care organization in response to a joint state and federal investigation of compliance with the Mental Health Parity and Addiction Equity Act for both fully-insured and self-funded plans.
- Conducting an internal investigation regarding compliance with Medicare Part D and other issues on behalf of a healthcare provider's Special Litigation Committee in response to a shareholder derivative suit.
- Advising a Medicaid managed care organization regarding potential fraud and abuse by providers including investigations and litigation.
- Overseeing a multistate review and revision of a health plan's provider contracts across multiple lines of business and development of provider incentive arrangements.
- Providing general counseling, regulatory analysis, and support for pharmacy benefit management contracting for both health plans and pharmacy benefit managers.
- Counseling health plans on Medicare secondary payer obligations.
- Assisting health plans with identifying and handling potential federal program overpayments and compliance issues, including risk adjustment data validation audits.
- Advising Federal Employee Health Benefits Program carriers on compliance and contracting issues.
- Representing a Medicaid managed care organization in administrative disputes and litigation with a State concerning actuarial soundness of capitation rates, government contracting, and related performance and transition of care issues.
- Analyzing the Clinical Laboratory Improvement Amendments for health plans and providers.

Articles

- What's At Stake In High Court Row Over ACA Constitutionality
Law360, 08.18.2020
- Federal Health Programs and Managed Care Litigation
Managed Care Litigation, 2nd ed.
American Bar Association Health Law Section, 2014

Healthcare Law Blog

- "Federal Government Announces Enforcement Discretion, Deferral For Certain Price Disclosures And Future Rulemakings," August 24, 2021
- "Not with a Bang, But a Whimper—Supreme Court Kicks Latest ACA Challenge for Lack of Standing," June 17, 2021
- "The Clock is Ticking on MHPAEA Compliance," April 16, 2021

Media Mentions

Health Care Life Sciences Trailblazers
National Law Journal, 04.2020

Outlook 2015: Legal Challenges to Subsidies, Enrollment Among Top Issues
Bloomberg BNA, 01.07.2015

Events

The Sweeping Landscape of Potential Liability For Risk Adjustment Activities: Providers and Vendors Beware, It's Not Just a 'Health Plan Issue' Anymore
10.14.2021

Memberships

American Health Lawyers Association
American Bar Association Health Law Section
Hispanic Bar Association of D.C.
Hispanic National Bar Association

Podcasts & Webinars

The Sweeping Landscape of Potential Liability For Risk Adjustment Activities: Providers and Vendors Beware, It's Not Just a 'Health Plan Issue' Anymore
10.14.2021

Practices

Corporate
Digital Health
Healthcare

Industries

Healthcare
Insurance

Education

J.D., Duke University, 2004
M.A., Boston College, 2001
B.A., Boston College, 2001

Admissions

District of Columbia
Minnesota
Supreme Court of the United States
United States Court of Appeals for the Fifth Circuit