

## **Fraudulent Operations to Get PIP'd by Changes in Florida No-Fault Law**

The FOS played a major role in organized medicine's effort to fend off sweeping changes in the Florida No-Fault statutes during the 2003 legislative session. Sighting rampant fraud in the system, the Florida Insurance Council lobbied for a major overhaul in the program. Their focus was to attack what they consider "hard" and "soft" fraud. The FOS firmly supported all efforts to attack hard fraud in the system that is often manifested in illegal solicitations of clients, staged accidents, and questionable medical clinics. However, we vigorously opposed their proposals to address what they term "soft fraud" in billing practices, measures that would have punished ethical physicians that continue to serve their communities by seeing PIP patients.

The bigger lessons to learn from this year's offensive is that the Department of Financial Services and insurance carriers will place increased scrutiny on billing practices and charges of participating physicians and that if organized medicine cannot assist in weeding out fraudulent operations from all parties in the system, then the legislature will attempt to reform the system with potential punitive implications. The major highlights of the legislation are the increase in oversight and regulations on clinics and an increase in the penalties on anyone convicted of defrauding the system.

While we were able to defeat the most onerous of the insurance industry wish list, there are some changes in the law that may have an impact on your practice. As with any piece of legislation passed in Tallahassee, the true impact of the changes will only appear once it is implemented. How carriers interpret and utilize the new billing definitions and the potential impact of their interpretations on our members will be revealed in the coming months. We strongly urge you to contact the Florida Orthopaedic Society with any issues that arise once the new law takes affect. We will continue to work with the Department of Financial Services on the interpretation of the language and feedback from our members will be critical in that process.

Significant Changes to Florida's No-Fault Laws:

### **SOLICITATION**

a) Solicitation regulations have been tightened and solicitation in any form is illegal. Also criminalizes possession of accident reports.

### **HCFA FORMS**

- a) Have to be signed by Doctor or signed/stamped by designee (see Medicare regs)
- b) All boxes have to be filled in (any material omission means its invalid billing)
- c) Must Use the Correct CPT code *the first time* or not proper notice of claim.
- d) Doctor's License must be in Box 31
- e) Can only bill for services incident to practice

### **OFFICE PROCEDURES (effective October 1, 2003)**

- a) Doctor must be present within building where services are being performed or you can't bill for it.
- b) PATIENT DISCLOSURE ACKNOWLEDGEMENT FORM must be filled out on first visit. Explains all procedure codes being billed for etc. The state is required to create a single form to be used for anyone. A temporary form is available on the FOS website.

- c) Patient Rewards are given out for turning in doctors who have billing errors (Patient gets a rebate from the insurance company for turning in the doctor).
- d) Patient Logs are now mandatory for every office visit after the initial one. Logs must reflect the date of service and be “consistent with the services provided”.
- e) Waiving balances/deductible is now a felony if done up front and as a routine business practice. An exception is allowed if done as a part of the patient’s settlement.
- f) Demand Letters are now required across the board in every claim. Effective August 1<sup>st</sup>, 2003.

## **REIMBURSEMENT/DEDUCTIBLES**

- a) Deductible is lowered to \$1,000.00. Maximum effective for new policies after 10-1-2003.
- b) Deductible is now applied to actual expenses (100%) and not benefits payable (80%).
- c) Policy limits of \$10,000 no longer reduced by deductible.
- d) Additional nerve conduction testing added to list of fee scheduled items
- e) Reimbursement that is tied into Medicare is now pegged at “participating physician rate”.
- f) Definition of reasonableness is modified to allow insurance companies to consider various fee schedules in determining appropriate reimbursement rate.

## **M.R.I. Facilities:**

- a) Licensing now required: All MRI clinics have to comply with the new licensing requirements unless exempt. (MRI facilities owned by physicians are exempt!)
- b) Must be accredited by JCHA, ACR or AACH in order to get the license. Initial probationary period of 6 months to allow you to show the State that you are making a good faith attempt to get accredited by one of the organizations above. (Again, physician owned MRI facilities are exempt.)

## **CLINIC/MRI CENTER LICENSING**

- a) All Clinics that used to be registered now have to be licensed.
- b) Must apply and be subject to inspection.
- c) Medical Director now is subject to interview and regulation by State.
- d) Must show financial viability by producing accountant prepared income statements or post a \$500,000 bond.
- e) Anyone with a financial interest must now be disclosed, own or control 5% directly or indirectly.
- f) Certain people with Felony Convictions are ineligible to own or control an interest.

A very special thank you is owed to the law firms of Watson & Lentner, Marks & Fleischer, and Kane & Kane, for their assistance in completing this article. The firms remain a strong supporter of the Florida Orthopaedic Society and recently held a seminar in Orlando for the FOS on these changes.