



Florida Orthopaedic Society Medical Economics Committee Monthly Practice Management Tip



September 2004

Ask the Attorney: Retroactive Denials of Non-par Treatment Agreements by Chris Nuland, J.D.
An HMO with whom I do not have a contract agreed in writing to pay specific amounts for specific codes for a specific patient. Now they say that they routinely bundle those codes and are threatening litigation to get their money back. What are my rights?

The ERISA law forbids a “plan administrator” from changing the terms of a group health plan. In other words, if the health plan says that the codes are to be bundled, the administrator’s contract with the group cannot be amended. That is the HMO’s basis for asking for a refund.

However, the administrator has entered into a separate contract with you to perform certain procedures at certain rates. You performed your part of the contract, and the HMO paid you in accordance with those terms. For the HMO to now ask for a refund is a breach of that contract. In addition, you may invoke the principle of “equitable estoppel,” which says that so long as you reasonably relied on the representations of a party in performing a deed, you can enforce the terms of those representations. In this case, you reasonably relied on the HMO’s representations when you performed the surgery; it would be a violation of “equitable estoppel” for the HMO now to renege on its promise.

In summary, the HMO is contractually bound to pay you the contracted rate. While this rate may be different from that set in the group plan, it is the HMO’s responsibility, not yours, to reconcile the apparent deviation from that plan with the group.

AHCA Announces An Increase in Medicaid Reimbursement for Specialists:

AHCA recently announced that they have finalized their plan for distributing the \$12 million of extra money available in the Medicaid budget to recruit specialists for treating children (up to 21 yrs of age) enrolled in Medicaid. The final plan will mean a 24% increase in reimbursement for the specialists when they treat a child in the program. You will need to pay attention to the administration of this extra money however.

First, you may want to make sure you are classified properly with Medicaid. They have a specialty classification for all of the physicians in their system. Since the money is only available to surgeons who have specific classifications (including orthopaedics), you will need to make sure you are registered as an orthopaedic surgeon with them. If they do not have a specialty classification for you, you may not receive the extra funding. The reimbursement plan is strictly based on your specialty classification with Medicaid. Secondly, the extra compensation will be retroactive to July 1st, 2004. AHCA warned that it will take some time until their system will be ready to start sending these reimbursements and retroactive increases. Finally, the only other trigger for the higher reimbursement is if you treated a child (up to 21 years of age). So you will need to make sure your staff is aware that you should be paid more for children in Medicaid and can monitor these payments as they come in to the practice.

It is not too late to register....

Florida BONES Society Fall Conference Co-sponsored by the FOS -October 8th & 9th, Casa Monica Hotel, St. Augustine - The FOS is extremely proud to be partnering with the Florida Bones Society to host our first combined Fall Conference. Our organizations have created a program beneficial for all orthopaedic practices in the state. The Fall Conference will focus entirely on practice management and administrative issues dealing with the business of orthopaedics in our state. We sincerely hope this will become an annual tradition and an event you cannot afford to miss. It is not too late to register for this event. **Please contact Kevin Joyce at 904-825-0540 to register.**

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