

# Dermatology Coding Alert

## Billing: Prove Financial Hardship Before Considering Waiving Copays

**The key: demonstrated financial need.**

In seminar after seminar, dermatologists and coders have heard the advice ad infinitum: Never waive a copay or deductible and don't offer discounts! In many cases, that mantra is correct. There are times, however, when you can offer patients with documented financial hardship a discount or waiver. Let our experts tell you the three steps to properly waiving patient fees based on financial hardship.

### 1. Understand the Exception to the Rule

Routinely waiving deductibles and copayments can violate several federal laws and regulations, including the federal False Claims Act, anti-kickback statutes, and compliance guidelines for individual and small group physician practices. Doing so may also violate payer contracts.

In black and white: "Physicians or suppliers who routinely waive the collection of deductible or coinsurance from a beneficiary constitute a violation of the law pertaining to false claims and kickbacks," CMS says in the Medicare Claims Processing Manual, Section 80.8.1. This applies not only to Medicare payers, but also those private carriers that base their regulations on Medicare rules.

Even though the rule is that you shouldn't offer waivers and discounts, you can make exceptions based on financial hardship -- if you follow a few guidelines.

"Waivers or discounts ... should be made only on the basis of demonstrated patient financial need," says **Barbara Colburn**, president/CEO of B.C. & Associates Management Corp., a Wisconsin-based healthcare consulting/billing organization. According to Colburn, you must meet the following criteria:

1. You do not offer the waiver as part of any advertisement or solicitation
2. You do not offer waivers routinely to patients
3. You offer the waiver after determining, in good faith, that the individual is in financial need or after reasonable collection efforts have failed.

"In offices that I managed we always had the option of a financial hardship waiver but it was usually offered only after all other means of collecting were exhausted such as insurance, payment plans, etc.," says **Marge McQuade, CMSCS, CMM**, a consultant and director of education for PAHCS in Florida.

Note: You can offer discounts to patient with no insurance who are self-paying without proving financial hardship. Offering waivers or discounts to insured patients, including Medicare patients, "may be suspect unless they are non-routine and related to genuine hardship," Colburn says.

Pointer: "Have a financial policy in place about how you handle patients with financial hardships," advises **Catherine Brink, CMM, CPC, CMSCS**, owner of HealthCare Resource Management, Inc., in Spring Lake, N.J. "This is very important since it ensures you don't 'discriminate' how you handle finances with your patients."

### 2. Get It in Writing

Don't just take the patient's word for it when it comes to financial hardship. Before you agree to a debt write-off, the patient needs to be able to prove he is unable to pay.

First, document the effort you took to collect the money. "Where a physician/supplier makes a reasonable collection effort for the payment of coinsurance/deductibles, failure to collect payment is not considered a reduction in the physician's/supplier's charge," CMS says in the Medicare Claims Processing Manual, Section 80.8.1. "To be considered a reasonable collection effort, the effort to collect Medicare coinsurance/deductible amounts must be similar to the effort made to collect comparable amounts from non-Medicare patients. It must also involve the issuance of a bill to the beneficiary or to the party responsible for the patient's personal financial obligations. In addition, it may include other actions, such as subsequent billings, collection letters and telephone calls or personal contacts which constitute a genuine, rather than token, collection effort."

If you want to prove financial hardship, you'll need to ask the patient to provide you with information such as income tax returns and W-2 and 1099 forms as proof of income and essential monthly household expenditures, such as mortgage/rent, utilities, insurance, and food.

You'll then use this information to determine whether the patient's earnings meet state and federal poverty guidelines. "Make sure you work within the poverty guidelines for your state," McQuade cautions.

Official guidance: The Office of the Inspector General (OIG) states "we do not believe it is appropriate to apply inflated income guidelines that result in waivers for beneficiaries who are not in genuine financial need."

The patient and the physician should also sign a statement detailing that the practice reviewed proof of financial hardship and listing what charges the practice is waiving. Your practice should keep a copy and provide a copy to the patient as well.

"The provider should keep up with legal developments related to discounts and waivers of co-payments and deductibles," Colburn explains.

Key to success: You also should only apply the determination of financial hardship to the particular visit or service you are billing for at the time, not to any future services.

### **3. Don't Avoid Collections If Waiver Is a No Go**

If a patient applies for financial hardship but your practice deems that the patient does not meet the qualifications for a waiver, you should send a waiver denial form. But don't let that stop your collections efforts and end up in a write off. You then need to proceed with billing the patient and letting him know you expect payment.

Option: "If a patient applies for financial hardship and doesn't qualify the next step would be offer a payment plan for the patient depending of course on the amount the patient owes and at what point you are doing the waiver (after insurance, self pay with payment plan first, etc.)," McQuade says.

"For example, ask for credit card to keep on file that you would charge, say \$50 each month," agrees Brink. "Have the patient sign this financial agreement." If the patient doesn't have a credit card, then set up a financial payment plan signed by the patient stating that he will pay by check or cash by a certain day of each month and the amount he will pay plus the date the balance will be paid in full, Brink adds.