

Optometry Coding & Billing Alert

Billing Basics: Do Your Best Intentions Cause Compliance Nightmares?

Plus: 15,000 reasons 'professional courtesy' is bad for business

With insurance restrictions on many optometric procedures, your office might be tempted to assist patients by offering discounts or even waiving copayments or deductibles. But protecting your patient's pocket could seriously jeopardize the health of your practice.

Perhaps the best advice when it comes to discounting or waiving fees is that -it's just not something you should do,- says **Catherine Brink, CMM, CPC**, president of Healthcare Resource Management in Spring Lake, N.J. But if you insist on treading into this area, you need to do so extremely carefully.

Reason: Financial arrangements that differ from the billing obligations laid out in your contract with government or third-party payers can result in fraud charges, penalties, and loss of carrier contracts.

Example: A new patient is left with a balance following a comprehensive eye exam (92004). The total charge for the service was \$125, with insurance covering 80 percent (\$100). The patient states that he cannot pay the remaining 20 percent. To assist the patient, you waive the remaining \$25 balance.

This scenario illustrates how quickly you can get into hot water. By discounting the service, you are effectively saying that your office's charge for the comprehensive exam is not \$125 but actually \$100. The waiver puts the claim in violation of the Federal False Claims Act because the practice misrepresented the charge to the third-party payer.

Learn the Law to Steer Clear of Violations

In the Federal False Claims Act, the Office of Inspector General (OIG) identifies three criteria that can result in violation:

- The waivers are routine;
- The waiver is given without regard to the individual patient's financial hardship; and/or
- The provider fails to pass on to the payer its proportional share of the discount.

If the practice in the above example still wanted to offer the patient a 20 percent discount and stay in compliance, it would have to rectify its violation of the third point. Instead of waiving the balance, you would apply the discount to the procedure as a whole and submit a claim for only \$100 to the third-party payer. After 80 percent insurance reimbursement, the patient would be left with a discounted \$20 balance.

You also want to be careful of the volume and dollar amount of discounts you offer to patients, says **Terri Fischer, CPC, CMC**, manager for LarsonAllen Health Care Group in St. Louis, Mo. OIG will keep an eye out for patterns of routine waivers, and with the exception of hardship cases, you don't want to discount services below the allowable Medicare rate.

Don't do it: The age-old practice of -professional courtesy,- or extending free or discounted services to other physicians or their families, is a violation under conditions 1 and 2 of the Federal False Claims Act. You may also put yourself in jeopardy under the Stark statute if Medicare perceives that your office received referrals by extending the courtesy, says **Judith A. Waltz**, partner at Foley and Lardner LLP in San Francisco. Cost: Referrals and claims that violate the Stark statute are each punishable by a \$15,000 penalty.

Consider What's at Stake

If you did decide to offer waivers or discounts to patients, and a third-party payer finds out, you will likely be in violation of your contract. -I have seen payers come in and yank contracts- following an audit of billed charges, Fischer says.

Best bet: If you ever encounter a situation in which you think a waiver or discount of fees is legally and ethically appropriate, contact your third-party payer to ensure that the arrangement would be in compliance with their contracts and policies.

Discounts and waivers for Medicare or Medicaid beneficiaries should raise an even bigger red flag. If Medicare finds that you have submitted claims that misrepresent the financial arrangement you made with the patient, you could be facing imprisonment, criminal fines, civil damages, civil monetary penalties and exclusion from Medicare and state healthcare programs.

-They're going to be as strict with you as with someone who's making up patients- names and putting in false charges,- Brink says.