

Optometry Coding & Billing Alert

State Law Governs Commercial Carrier Refunds

Question: We billed a non-contracted carrier based on coverage information the patient provided at the time of service. A few months after we received payment, the carrier began requesting a full refund, stating the patient's coverage had terminated prior to treatment. We responded by advising the carrier to look to the patient for the refund. Now the carrier is threatening legal action. Are we legally obligated to issue a refund to the carrier?

Arizona Subscriber

Answer: Assuming you are dealing with a commercial carrier, not Medicare, state law is going to dictate your legal obligations. Many states have case law that basically gives the provider the upper hand in a situation like this. These laws contend the provider billed for services in good faith and has an equitable right to the payment he received.

First, ask for proof the patient didn't have insurance coverage at the time of service. Next, you should consult with legal counsel within your local jurisdiction to determine whether the state laws work in your favor. Even if the carrier has proof that the patient no longer had coverage at the time of service, chances are state law will dictate that the carrier should seek remedy from the patient, not from your practice.

Watch out: If your practice has an ongoing relationship with this carrier, you should be very vigilant to make sure the carrier doesn't try to offset what it believes you owe through other accounts. The carrier may attempt to underpay you on other claims as a way to compensate itself.

Know the law: There is also a chance your state's laws may obligate the provider to reimburse the carrier in this scenario and then seek payment from the patient. Legal counsel is the best way to make sure you're fully informed.

Advice for Reader Questions and You Be the Expert contributed by **David Gibson, OD, FAAO**, practicing optometrist in Lubbock, Texas; and **Charles Wimbish, OD**, president of Wimbish Consulting Group in Martinsville, Va.