

Part B Insider (Multispecialty) Coding Alert

PHYSICIAN NOTES: Emergency Room Physicians Can Charge Patients A 'Reasonable' Fee

Court rules that 'balance billing' isn't illegal in the ER

It's not illegal for emergency room physicians to "balance bill" patients who belong to managed-care organizations (MCOs), a court ruled.

When a managed-care patient comes into the ER, sometimes an emergency physician who belongs to that patients' MCO isn't available. In that case, a non-participating ER doc is legally required to treat the patient, and the MCO must pay the doctor.

But the doctor doesn't have to accept the MCO's payment rate as payment in full, the **Court of Appeals for the Second District of California** ruled in *Prospect Medical Group v. Northridge Emergency Medical Group* (B172737). Instead, the doctor can bill the patient for the difference between the MCO's rate and the doctor's fee.

If the patient belongs to a Medicare managed-care plan, the physician can still "balance bill" the patient, the court added.

However, the health plan has standing to sue the physician if it decides the physician's fee is unreasonable, the court said. Thus, the plaintiff in this case, **Prospect Medical Group**, can sue based on the idea that the physicians were charging an unreasonable amount.

- Charlotte, NC cardiologist **Amir Hussein** will pay \$2.6 million to settle charges he defrauded Medicare from 1997 to 2003, the **U.S. Justice Department** said according to the Associated Press. Hussein allegedly billed Medicare for medically unnecessary services and sometimes billed twice for the same service. A whistleblower will receive a portion of the repayment, which includes fines.
- **Gregory Delatour** pled guilty to Medicare fraud involving a Miami AIDS clinic. Delatour and his co-conspirators allegedly paid Medicare patients to come to the clinic. The patients were either not treated at all, or were provided medically unnecessary services. Delatour faces up to 10 years in prison.
- Medicare has proposed to deny coverage for Charite, an artificial spinal disk made by **Johnson & Johnson**, because there's not enough evidence that the surgery to implant the device is "reasonable and necessary," according to the Wall Street Journal. You have 30 days to comment by going to www.cms.hhs.gov/mcd/viewtrackingsheet.asp?id=170Z.
- [Correction: PBI inadvertently included the wrong code for 3-D holographic reconstruction, 76375 \(PBI, Vol. 7, No. 5\). That code was replaced with 76376-76377. CMS deleted 76375 from the skilled nursing facility consolidated billing list in Transmittal 826, dated Feb. 1, but that doesn't mean you can now bill for 3-D reconstruction separately in the skilled nursing facility setting.](#)