

Part B Insider (Multispecialty) Coding Alert

PHYSICIAN NOTES: Plaintiffs Can Go After Physicians If Malpractice Insurer Goes Under

You're at risk if your insurer goes into liquidation

For already struggling physicians, life just got a little harder.

The **Superior Court of New Jersey, Appellate Division** ruled recently that plaintiffs can go after physicians' personal assets if a doctor's insurance company is in liquidation, in *Frederick Johnson and Margaret Ann Johnson v. Willie R. Braddy, Braddy Trucking and Walsh Trucking (A-6173-03T2)*.

Now that doctors are on the hook if their insurers go bankrupt, they may be forced to reduce patients' access to care, warns the **American Medical Association**. The court said that if damages exceed the \$300,000 cap set by the **New Jersey Property-Liability Insurance Guarantee Association**, then the defendant becomes personally liable.

The court cited New Jersey's "strong public policy of affording injured parties an opportunity to recover the full amount of their damages." If the state law had intended to allow defendants to get off the hook for damages over \$300,000, it would have said so explicitly, the court ruled.

In other news:

1. The most expensive 5 percent of Medicare patients accounted for 43 percent of all Medicare spending in 2001, and the most expensive 25 percent of patients accounted for 85 percent of all spending, says the **Congressional Budget Office** in a new analysis, "High Cost Medicare Beneficiaries." But identifying future high-cost beneficiaries in time to reduce their expenditures is difficult, and finding ways to reduce their expensiveness is equally hard, the CBO concludes.
2. The **American Society for Bariatric Surgery (ASBS)** expects at least one new CPT code to be approved for 2006 - for laparoscopic gastric banding. And a second CPT code, for laparoscopic duodenal switch, possibly will be approved for 2006 as well, according to ASBS coding expert **Mary Lou Walen**.
3. New ciliary body destruction [code 66711](#) represents a service that Medicare has long covered in the ambulatory surgery center setting, and therefore Medicare should cover 66711 in the ASC setting, the **Centers for Medicare and Medicaid Services** says in May 6 Transmittal 153 (Change Request 3817). CMS will add the code to the ASC list in July, retroactive to Jan. 1, 2005.
4. CMS is launching a demonstration project to allow "vision rehabilitation professionals" to provide the same services to treat vision impairment that Medicare already covers when provided by an occupational or physical therapist. The Low Vision Rehabilitation Demonstration will run for five years starting Oct. 1, according to May 6 Transmittal 23 (Change Request 3816).