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Health Information Compliance Alert

Reader Question: Know When You Can Bill the Patient Directly Instead of Using an ABN

Question: I need to know if I can bill a patient for a supply (crutches) and not bill their insurance. We have an insurance company that is not paying us enough to cover the cost of the crutches. In this case I know that Blue Cross covers the supply but the amount they allow is well under the cost to us for that supply. If I bill the insurance I am bound by our contract with them to write off the provider discounted amount in which case our office will lose money. Is it ok if we let the patient know that his insurance will not cover our cost and then bill the patient instead?

Answer: No, you should not skip billing the insurance company and bill the patient instead. Since you are contracted with the payer, you cannot simply bill the patient.

If you believe a payer will not cover the cost of supplies, such as crutches, then before providing the service you can have the patient sign a form such as an advance beneficiary notice (ABN).

An ABN is a written notice a provider gives a patient before furnishing items or services when the provider thinks that insurance company will not pay on the basis of medical reasonableness or medical necessity. When issuing an ABN, you must advise the beneficiary that she will be personally and fully responsible for payment of all items and services specified on the ABN if the payer denies the claim. With this information, the patient is then in a better position as a healthcare consumer to make an informed decision about which services she may have to pay for out of pocket or through other insurance.

Caveat: If you know an insurance company will pay for a service, but you just don't like the amount they pay, you cannot use an ABN. That sounds like the situation in the case you describe.

In your case, you know the payer will pay but you are hoping to get more reimbursement than Blue Cross will pay you. If you are contracted with Blue Cross, which it seems you are, then your practice agreed to abide by the payer's fee schedule and accept that payment as payment in full. You can't just bill the patient to get more money because you don't like what Blue Cross would pay. You would be violating your contract (which is noncompliant and fraudulent), warns **Catherine Brink, BS, CMM, CPC, CMSCS**, president of **Healthcare Resource Management**, in Spring Lake, N.J. -- not to mention you'd likely upset your patient (though that's minor compared to fraudulent billing).

The way to avoid this is that your practice should review the fee schedules set out in your payer contracts. When your contract is up for renewal, you should consider negotiating on this supply code (and perhaps others?) to see if the payer will increase the reimbursement you get. "All payer contracts have some flexibility and negotiations especially if your services are costing a huge quantity to the payer," Brink says.