

Billing Issues for Ambulance Services

by Bradley M. Pinsky, JD/MHA/EMT-D

Ambulance companies which bill for their services must be careful not to violate the many laws which apply to them. Each company which bills should consult an attorney knowledgeable with these issues before signing or renewing a contract.

Contracts with towns

Ambulance services are permitted to bill user fees and to receive contract fees from a town at the same time. Although this was not permitted in the mid-1980's, the law has since been amended to permit this arrangement. However, if an ambulance company contracts with a municipality to provide ambulance services to the municipality, the contract must contain a clause permitting the service to bill user fees. A schedule of fees must also be attached to the contract. This is extremely important. Other clauses should permit the ambulance company to collect the fees directly from the user.

"Soft billing" and waiving co-payments

Many not for profit ambulance companies use practices entitled "soft billing" or "insurance only" billing. Both of these practices can be illegal.

Soft billing practices vary among providers, but the common thread appears to be that the company terminates its efforts to collect the patient's portion (i.e.: co-payment) of user fees at some point. Soft billing can violate federal law.

Soft billing essentially entails sending a limited number of billing notices for co-payments to patients. This practice "walks the line" of violating federal law, though all that is generally required is a good faith attempt to collect the co-payment. One notice may not be enough, while sending three notices should suffice. Of course, the notice should not in any way state that paying a co-payment is optional or is considered a donation. Providers also should be careful that agreements with insurance companies do not impose a greater requirement for collection activities.

Those companies which collect Medicare insurance payments may not waive co-payments. Waiving a co-payment involves foregoing the collection by either not making a good faith attempt to collect it, or by agreeing not to collect it. In fact, a company that in its contract with a municipality agrees to waive the insurance co-payments of the municipality's residents may violate a federal criminal law by offering a kickback. The government will likely view the waived co-payment as a payment for the contract with the municipality itself.

A policy of an ambulance company to not send a bill for the co-payment to a patient may also be a breach of a payment agreement with an insurance company, as insurance companies may require ambulance service providers to collect the co-payment from their users.

Co-payments can be paid by another party. For instance, the federal government permits the town with which an ambulance contracts to assume the payments of the co-payment. Thus, the town contract payment can be supplemented for any co-payments of residents, so long as the payments are reasonably related to the actual co-payment amounts. This is a big political benefit to the town and ambulance service.

Health Maintenance Organizations

A recently enacted law requires Health Maintenance Organizations ("HMOs") to pay for ambulance services as long as the transportation provided was required for an emergency condition. The condition need not have truly been an emergency condition so long as a reasonable person would have believed that the absence of transportation would have placed the patient in serious jeopardy (see Insurance Law Section 3216 for more information about this requirement). Ambulances should arrange for payments and for the amounts of payments with the HMOs.

Intercept Agreements

Any company that bills Medicare for an intercept or ALS hookup must have an intercept agreement with the transporting or intercepting company. Only one bill for services should be submitted, with both the BLS/transporting and ALS portion combined. This is generally a Medicare requirement only, and is often not applicable to non-federal insurance programs.

Compliance Programs

Those who bill for services should strongly consider implementing a corporate compliance program. Simply put, a compliance program creates a system to dissuade corporate fraud. Companies that come under scrutiny from the government for their billing practices are likely to receive favorable treatment if they have a truly active compliance program.

Conclusion

Readers should also review the article entitled "Contract Issues for Ambulance Providers". However, those services that bill have the additional concern of not only being permitted to bill, but maintaining legal billing practices. While some companies feel that they are being kind by waiving co-payments, this is a prohibited practice. There are better avenues to avoid having tax payers remit co-payments. Moreover, billing for services can be dangerous if the billing programs are not well planned. Bradley M. Pinsky, Esq. assists his clients with creating, managing, reviewing and operating billing programs and the related issues.