

Ambulance Companies: Avoid percentage based billing arrangements.

By: Bradley M. Pinsky, JD/MHA/EMT

Percentage based billing is a common practice throughout New York State in the ambulance industry. Percentage based billing (“PBB”) involves an arrangement where a billing company receives a percentage of an amount collected from a patient. Ambulance companies tend to favor these arrangements, as they believe that the billing company has more of an incentive to bill and collect fees from a patient.

The other, less common billing practice is a flat fee billing arrangement. Under this arrangement, ambulance companies pay the billing company a flat fee for every bill submitted, regardless of whether payment is collected and regardless of the price of the bill.

Medicare, New York State Medicaid and other states disfavor percentage based billing. In fact, Medicare has had long standing concerns about these arrangements (See, Opinions of Inspector General 98-4 and 98-1). Medicare has stated “Percentage compensation arrangements are potentially abusive, however because they provide financial incentives that may encourage overutilization of items and services and may increase program costs” (63 Fed. Reg. 243).

Medicare’s concerns may be justified. There may be an “incentive” for billing companies to “up-code” charges, as the billing companies would receive a higher percentage of the collected fee. Up-coding involves increasing the code to another code which provides a higher fee, and thus the percentage of the bill would be higher.

Some states have struck down percentage based billing arrangements as illegal, though not necessarily in the ambulance arena. For example, in 2008, an Illinois Court struck down a percentage based billing arrangement as violative of an anti-fee splitting law. A similar law exists in New York State, which prohibits physicians from splitting fees. Splitting ambulance fees in New York State may not be illegal, per se, but the underlying concern of fee-splitting still exists. No person other than the ambulance company should have an interest in receiving the fees so that no person attempts to increase the fees.

We believe that New York State will become increasingly concerned with fee-splitting arrangements and percentage based billing arrangements in the ambulance arena. We strongly suggest that ambulance services should avoid percentage based billing arrangements and negotiate flat fee billing arrangements.

About the author:

Bradley M. Pinsky is an attorney in Syracuse, New York. His firm represents approximately 300 ambulance services, fire districts and fire departments throughout the state. He has been certified as an EMT since 1988 and is a Captain and Municipal Training Officer in the Manlius Fire Department. He lectures throughout the nation, including at the largest fire service conference, FDIC. He participates in a radio show on FireEngineering.com on legal issues in the fire and EMS arena. He is published in major magazines and news media.