

Solutions Medical Billing's Weblog

NY Medicaid demands repayment of Millions of Dollars

February 27, 2017 — solutionsmedicalbilling

NY Medicaid has been sending letters to physicians in New York State demanding providers pay back huge amounts of money. These demands are not for any overpayments or errors in billing. The Medicaid Fraud Control Unit has found a new way to take millions of dollars away from doctors based on an article in Volume 16 Number 3 of a Medicaid update issued in March of 2001.

The article states that billing agents are prohibited from charging Medicaid providers a percentage of the amount claimed or collected. They state it is prohibited by the antiquated fee splitting laws.

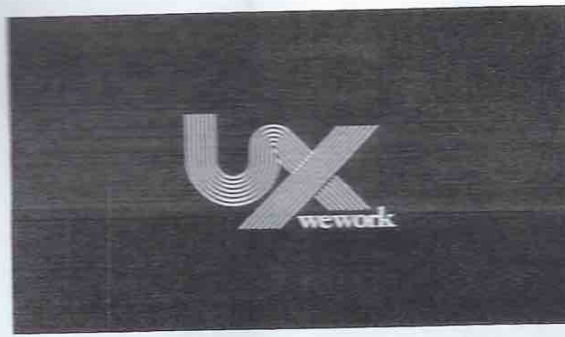
They go on to state that they understand that these practices are very common but it is not acceptable under the Medicaid program.

The letter then goes on to state that during the period of 1/1/2010 to present time Medicaid paid out \$XXXXXXXX to the provider, and that the provider paid the billing service \$xxxxxx. They then demand that one half of the amount the provider paid to the billing service during that time frame be repaid to Medicaid. The amounts Medicaid is demanding are staggering. We were sent a copy of one letter demanding \$48,151.66. To add flame to the fire Medicaid is charging 9% interest on top of this. What can we, as a medical community, do about this? Some are hiring attorneys to fight it. Some are checking into it with their professional associations. We know of one family practice that is going out of business. They have notified their patients and are closing up. Other doctors will drop out of the Medicaid program. How will all this affect Medicaid patients if doctors give up participation with the program?

We have been saying for several years that charging a percentage is considered fee splitting in several states including New York. The problem is that most providers want to be charged a percentage because they feel that this is the best way to make sure that the billing service is doing their job. They are only paid if and when the provider is paid. However, at the end of the day it is still considered fee splitting.

At this time it appears that it is only straight New York State Medicaid however we have heard rumors that the Medicaid Managed Care Plans may follow. Commercial insurances could also decide to follow suit. The letter sent out by NYS Medicaid indicates that providers can actually lose their license for violating fee splitting laws.

If you or one of your providers have received a letter from Medicaid requesting a refund due to percentage billing please let us know what your office is doing about this. What are you hearing? We will post responses anonymously to let others know what is happening.



Posted in Uncategorized. 7 Comments »

7 Responses to “NY Medicaid demands repayment of Millions of Dollars”

kelly Says:

February 27, 2017 at 2:53 pm

This may be a silly question, what if we charge per encounter?

Reply

solutionsmedicalbilling Says:

February 27, 2017 at 9:10 pm

Some billing services do charge per encounter. We actually have some providers that pay this way.

Reply

cyndeewestonCyndee Weston Says:

February 27, 2017 at 9:17 pm

It has to be an arms length transaction, based on fair market value and cannot loosely be based off of a percentage. But that is the spray to go.

kelly Says:

February 27, 2017 at 9:31 pm

Does anyone have some comments on what a going rate per Encounter would be or even a ballpark. I have not spoken to anyone that is on a per Encounter. I know it would depend on how much you handle, from Total billing including patient to just coding. Any thoughts from anyone?

cyndeewestonCyndee Weston Says:

February 27, 2017 at 9:05 pm

AMBA has researched NY specifically, it is against NY banking and education department law. We've had NY attorneys give opinions and speak at our conferences on this. This is the first we've heard of them asking for money back, but we've known for years it was against the law.

Reply

solutionsmedicalbilling Says:

February 27, 2017 at 9:11 pm

Yes, we too have known that it was considered fee splitting. This is the first we have ever seen any action taken. Many providers also know but still want to pay a % while others refuse. This is a wake up call to those providers and billing services that have not believed that it is considered fee splitting.

Reply

cyndeewestonCyndee Weston Says:

February 27, 2017 at 9:21 pm

Our General Compliance Counsel has been talking to AMBA Members for years about this possibility that it could happen. Many of our members have moved to a flat rate or per transaction fee. I understand that doctors want to pay like everyone else does, but neither a doctor nor a billing company sue the other party for breach of contract because entering into a percentage billing arrangement in NY is illegal and could never be enforced.

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What is Fee-splitting »

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ARCH 1, 2017

New York's Medicaid Program Re-issues Warning for Health Care Providers to Avoid "Percentage of Collection" Fee Agreements with Billing Companies, or Face Recoupment Proceedings

By The Health Law Partners

 Recent letters from New York's Medicaid Fraud Control Unit ("MFCU") to those healthcare providers in New York State who have "percentage of collection" arrangements with their outside billing companies are demanding that such providers refund money paid to them by Medicaid based on MFCU's determination that such billing arrangements are illegal under the Medicaid law and may also constitute unprofessional conduct under New York's Education Law.

Healthcare providers, especially those who accept Medicaid, should immediately review their billing vendor service contracts to make sure they do not provide compensation to the billing company that is based on a percentage of collections.

In response to the letters recently sent to New York licensed physicians by MFCU, the Medical Society of the State of New York (MSSNY) is urging its members to amend the fees they pay to their billing companies for Medicaid claim submissions so that they reflect either: (1) payments based on time; or (2) a flat fee for claims submitted.

In its letter to selected healthcare providers who were found to have such illegal arrangements, MFCU states:

"Billing agents are prohibited from charging Medicaid providers a percentage of the amount claimed or collected. In addition, such payments arrangements, when entered into by a physician, may violate the Education Law and State Education Department's regulations on unlawful fee-splitting.

In recent months, the Medicaid program has been made aware of violation of the regulations concerning

the permissible payment arrangement with business agents. Although we understand that these practices are very common when it comes to billing other third party health insurance programs, including the Medicare program, it is not an acceptable arrangement under the Medicaid program.”

MFCU encourages all healthcare providers to assure that their payment arrangements are in compliance with the Medicaid regulations. Otherwise, the provider may be required to refund the resulting Medicaid payments made to him/her, or his/her practice. MFCU also cautions healthcare providers that they should only contract with billing agents who are enrolled in the Medicaid program and that they should ask for written proof of such enrollment before engaging them to provide billing and collection services.

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For more information, please contact Joel M. Greenberg, Esq. at (516) 492-3390.

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