HINSHAW

Alerts

Obamacare Reform Watch: Reimbursement Strategies in an Environment of Growing Out-of-Pocket Costs and an Expanding Self-Pay Population

February 22, 2017
Health Law Alert

The increase in patient financial responsibility for health care costs in the past ten years has outpaced consumer growth in wages. This escalation of out-of-pocket costs represents a major revenue cycle challenge for health care providers. We anticipate the reforms to Obamacare will likely increase this challenge. President Trump and Senator Rand Paul have advocated significantly expanding health savings accounts to reduce costs by shifting the control of health care costs from employers to consumers. Kellyanne Conway, an advisor to President Trump, has said she expects Medicaid will be turned into a block grant program, meaning the open-ended funding states currently receive from the federal government will be replaced with restricted federal funding for states to implement Medicaid as each state chooses. In addition, many Congressional Republicans have indicated they want to repeal both the employer and individual mandates, which may result in more people remaining uninsured without paying a penalty. These objectives will significantly increase the self-pay population.

Employ Strategic Claims Management to Increase Reimbursement

The strategic management of accident claims is an increasingly important means to increase reimbursement. For example, providers do not need to accept Medicaid's negotiated rate when there is a payment source other than the beneficiary. A provider who does not bill Medicaid may choose to forego the certainty of a Medicaid payment and instead pursue the possibility of a significantly increased recovery under a state's medical lien law. *Evanston Hospital v. Hauck,* 1 F. 3d 540 (7th Cir. 1993); *Robinett v. Shelby Cty. Healthcare Corp.,* 2017 BL 28965, E.D. Ark., No. 3:16-cv-188, 1/31/17.

A provider has a similar election with Medicare. If the liability carrier has not made or cannot reasonably be expected to make payment to a provider within the 120 day Medicare prompt payment period, the provider has two choices: 1) bill Medicare after no fault insurance is denied or exhausted; or 2) not bill Medicare and seek recovery under a state's medical lien law. Compliance rules require proper billing of the claims. Substitute billing (billing the liability insurer after the provider billed Medicaid or Medicare) and double billing (billing both the liability insurer and Medicaid or Medicare) is prohibited.

Patient access and registration departments need to understand what information is needed from the patient to allow the provider to investigate alternative sources of payment and to properly coordinate the billing of no-fault, group, COBRA, liability, workers' compensation and government payers. Strategic management of claims will increase reimbursements at the higher liability insurance rates and help off-set the compromised cash flow associated with an expanding self-pay population.

This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.

©2024 Hinshaw & Culbertson LLP