DISPELLING THE MYTHS OF OUT-OF-NETWORK BILLING

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April 1, 2009
WHAT DOES BEING "OUT-OF-NETWORK" MEAN?

• When a provider does not have a contract with an insurance carrier
  ▪ Most providers are out-of-network to some degree; and
  ▪ No ASC or physician is contracted with every payor.
RISKS OF BEING OUT-OF-NETWORK

- Business issues;
- Constant legal & regulatory attack; and
- Huge consequences if you get it wrong.
WHAT ARE THE DANGERS OF BEING OUT-OF-NETWORK?

- Business Issues
  - Negative impact on cash flow;
  - Artificial fee schedules applied to out-of-network ASC claims;
  - Patients steal the ASCs’ $$$;
  - Collecting out-of-network claims is more difficult than contracted claims; and
  - Managing patient expectations requires extensive training & education.
NEGATIVE IMPACT ON CASH FLOW

- With delay tactics commonly used by insurance companies, it may take a very long time to be paid on out-of-network claims.
  - Collection periods can range between 30 days to well over a year.
  - 1/3 of out-of-network claims are paid within 30 days.
  - 2/3 of all out-of-network claims are not paid timely.

- An ASC choosing to go completely out-of-network may need an ABL.
ARTIFICIAL FEE SCHEDULES APPLIED TO OUT-OF-NETWORK ASCs

- Certain insurance carriers apply internal “artificial” fee schedules to claims submitted by out-of-network ASCs.
- In Fall 2005, BCBS of NJ began reimbursing certain out-of-network ASCs based on an internal fee schedule equivalent to about 5% of UCR charges.
PATIENTS STEAL THE ASC’s $$$

- Insurance carriers routinely send payments for out-of-network claims directly to the patient.
- Obtaining ASC $ can be time consuming, expensive & sometimes unsuccessful.
COLLECTING OUT-OF-NETWORK CLAIMS IS HARDER THAN CONTRACTED CLAIMS

- Expertise required in billing & collecting (e.g. setting the charge master);
- Can be more time consuming;
- Out-of-network claims are scrutinized more than contracted claims, so the accuracy & completeness of information submitted is critical;
- If billing & collections are handled internally, your staff must be extremely knowledgeable on out-of-network billing and collecting; and
- Outsourcing the billing & collections process can be very expensive.
UNEXPECTED LARGE BILLS = UNHAPPY PATIENTS

- Regardless of the patients’ clinical experience, patients who receive “surprise” enormous bills will take away a negative experience & spread the word to their friends tainting the reputation of the ASC.
- Being out-of-network requires continued extensive training & education.
  - For surgeons & their office staff;
  - For ASC staff; and
  - For patients
THE FUTURE

- Demise of the Ingenix database
- Increased transparency
- Federal health care reform
LEGAL & REGULATORY CONCERNS

- If a surgeon is in-network, can a payor prohibit the surgeon from referring a patient to an out-of-network facility?
- If not, can the payor interfere with the surgeon’s medical judgment & intercept the patient (calls, letters, etc.)?
- Are out-of-network providers subject to attack by the State? By insurance carriers?
What is the responsibility of an out-of-network ASC to collect patient portions?

Can an out-of-network provider accept “insurance only” & waive all co-payments, deductibles & co-insurance?

Is an out-of-network provider permitted to offer patient discounts?
LEGAL & REGULATORY CONCERNS

- What are the risks if patient portions are not collected?
- What if the doctor collects the patient balance, but the ASC does not?
- Can the ASC negotiate payment terms with the patient prior to surgery?
IF BEING OUT-OF-NETWORK IS RISKY, THEN WHY NOT CONTRACT?

- Insurance carriers have far more leverage than any free-standing ASC in NJ.
- The unreasonable rates offered by the insurance carriers reflect their clout.
- ASCs not willing to go out-of-network are faced with accepting contracts at unfair rates.
REAPING THE BENEFITS OF OUT-OF-NETWORK

- **Every** highly successful ASC utilizes out-of-network strategies to some degree.

- Results from ASCs adopting an out-of-network approach are astounding!
## STAGGERING RESULTS: OUT-OF-NETWORK ASC

<table>
<thead>
<tr>
<th>Plan Description</th>
<th>Knee Scope</th>
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<tbody>
<tr>
<td>Medicare (Bergen County)</td>
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<td>BCBS NJ – Contracted Rate</td>
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<td>BCBS NJ – Policy Subject to Artificial Fee Schedule</td>
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<td>BCBS NJ – Good Policy</td>
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CASE STUDY #1

● Scenario:
  - Small, heavy volume ASC that had been operating for 6 years;
  - Mix of contracted & non-contracted revenues; and
  - EBITDA of $4 million per year.

● Analysis revealed:
  - ASC did an excellent job of determining which contracts to accept & reject.
  - However, ASC’s billing practices were not correct.
  - By implementing changes to the billing process, potential to immediately increase EBITDA by at least $2 million per year.
CASE STUDY #2

- Scenario:
  - 4 OR ASC;
  - Breaking even at best with no profits available for distribution to physician partners; and
  - Largely contracted with most payors.

- Analysis revealed:
  - By implementing a strategy consisting of a combination of an out-of-network and managed care payor mix, ASC was projected to earn $10 million per year.
CASE STUDY #3

- Scenario:
  - 8 OR ASC;
  - Net losses of $300,000/year
  - Largely contracted with most payors;
  - Entered into an Aetna contract for approximately $1,025/case without any prior analysis to weighing the pros and cons of contract.

- Analysis revealed:
  - Collected approximately $4,800/case from Aetna out-of-network prior to entering in the contract.
  - The $3,775/case differential equated to $1.1 million in lost revenue.
WHEN OUT-OF-NETWORK IS APPROACHED INCORRECTLY

- With the wrong approach, the risks can be high and the consequences severe.
  - Dissatisfied patients (which are in essence referral sources).
  - Increased exposure to legal issues.
    - Attack by insurance carriers, the State of NJ, patients, employees, etc.
    - Costly legal fees to defend multiple legal proceedings.
  - Failure of the business.
    - Bankruptcy
    - Involuntary shutdown by a regulatory agency
THE RIGHT APPROACH TO OUT-OF-NETWORK BILLING

- Careful analysis of existing contracts, payor mix and willingness of physicians to drop or decline losing contracts;
- Ensure charges are correct and supported by the medical record;
- Education and training are a must; and
- Consistent and legal plan for collecting balances must be employed.
CONCLUSION

- Done right, applying out-of-network strategies can mean increases in profits for your ASC;
- Do not be afraid to go out-of-network with certain payors;
- Engage experts to help determine which strategies make the most sense for your ASC;
  - Consult your local attorney to ensure compliance with state laws on balance billing and to help educate physicians and center on ability of plans to expel docs;
- Involve experienced billing & collection experts to ensure that you maximize reimbursement & minimize exposure to risk; and
- Out-of-network billing must be part of an overall business strategy.
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