OUT-OF-NETWORK BILLING: IS IT WORTH THE RISKS?

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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 it’s not done right.
WHAT ARE THE DANGERS OF BEING OUT-OF-NETWORK?

● Business Issues
  - Negative impact on cash flow;
  - Artificial fee schedules & caps applied to out-of-network ASC claims;
  - Patients steal the ASC’s $$$;
  - Case flight due to threat of termination of the surgeon’s managed care contract by the insurance carrier for bringing cases to an out-of-network ASC;
  - 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.
  - On average:
    - 1/3 of out-of-network claims are paid within 60 days.
    - 2/3 of all out-of-network claims are not paid timely.

- An ASC choosing to go out-of-network may need an ABL.
Insurance carriers throughout the country are selling policies that cap payments to out-of-network ASCs.

- Including Aetna & Anthem Blue Cross in California, Medical Mutual of Ohio, and BCBS of Kansas City.

Certain insurance carriers apply internal “artificial” fee schedules to claims submitted by out-of-network ASCs.

- For example, in Fall 2005, BCBS of New Jersey began reimbursing certain out-of-network ASCs based on an internal fee schedule equivalent to about 5% of UCR charges.
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PATIENTS STEAL THE ASC’s $$$

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

- Expertise required in billing & collecting (e.g. setting the charge master);
- Can be more time consuming;
- Out-of-network claims may be scrutinized more than contracted claims, so the accuracy & completeness of information submitted is critical;
- If billing & collections are handled internally, 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” bills for large amounts 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;
- Higher out-of-network deductibles & out-of-pocket maximums;
- Surgeon case flight from out-of-network ASCs; and
- 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, expulsion, etc.)?
- Are out-of-network providers subject to attack by the state? By insurance carriers?
- Can surgeons who refer patients to out-of-network ASCs be expelled from insurance plans by the payors?
  - *e.g.* Medical Mutual of Ohio and BCBS of New Jersey
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?

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.
- 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.
- Some carriers refuse to add ASCs to their insurance networks.
Every highly successful ASC utilizes out-of-network strategies to some degree.

There can be enormous differences between out-of-network reimbursement rates and contracted rates.
Note: Out-of-network reimbursements are based on policies that are not subject to an internal fee schedule or cap.
CHARGE MASTER = UCR

- Your charge master must be consistent with UCR (usual, customary & reasonable) charges within your area.
  - If you undercharge, you’re giving the insurance carrier a discount & leaving money on the table or
  - If your charges are exorbitant, you risk delaying payment & outraging patients.
- Inflated charges by out-of-network providers are routinely the subject of studies to debunk out-of-network.
  - Recent survey of the highest 2008 billed charges by out-of-network providers in 30 states showed out-of-network charges ranging from 401% to 5,315% of Medicare reimbursement rates (America’s Health Insurance Plans Study, August 2009)
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 was not charging UCR rates.
  - By implementing changes to the charge master & other billing practices, 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 at below market rates.

● Analysis revealed:
  - By implementing a strategy consisting of a combination of an out-of-network and contracted strategy, 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; and
  - 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 annually.
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, 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.