

Fight back when insurers place obstacles between you and your money.

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Insurers use common tactics to delay or deny claims.

Do any of these situations sound familiar to you?

Here's how to adapt and respond.

1. Pre-cert flim-flam. The insurer says pre-certification isn't required for the procedure. When you submit the claim, the insurer denies payment because you didn't obtain the necessary pre-certification. Now you've got to appeal, arbitrate or litigate to get paid. Prevent this by noting the names or employee numbers of the insurer's reps you deal with in patient billing records. That way you can identify who told you to proceed and when, which will strengthen subsequent collection efforts. Many facilities have also adopted a universal pre-certification policy, regardless of the carrier's requirements. If there's any doubt whether a patient's plan requires pre-certification, it's advisable to seek it.

2. Policy language limbo.

More and more policies are restricting reimbursement to "licensed" surgical facilities. This is a troubling development in states where single-room ASCs and

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Clearing Reimbursement Hurdles

office-based facilities are exempt from requirements to obtain licensing, but are providing patient care identical to licensed facilities. This type of denied claim hasn't yet been challenged in court, though New Jersey lawmakers are currently considering a proposal to require reimbursement as long as the facility is authorized to provide patient services.

3. Unforgiven forgiveness. Don't make a habit of forgiving patients' financial responsibilities. Many insurers investigate your submitted claims and contact your patients to determine whether you're systematically forgiving patients' co-pays and deductibles, which they see as insurance fraud. Insurers will brand such facilities "fee forgivers," demand repayment and deny further reimbursement. Adopt a policy that prohibits the waiving of financial responsibility. If you have a charity care program for those unable to pay their share, let them know. And have patients sign the policy during intake.

4. "Love" is in the air. Settlements in class action lawsuits can impact your reimbursement. A few years ago, Horizon Blue Cross Blue Shield of New Jersey settled a case with a nationwide class of physicians (the "Love Class Action," named after the physician who initiated it). This agreement bound all physicians who didn't opt out (and curiously few did), releasing the insurer from all claims before the settlement date in exchange for a nominal payment. Horizon is now arguing that this settlement releases them from liability for payments owed to ASCs. In our view, this is an over-expansive interpretation of the settlement. Legal proceedings are underway in Florida, where the lawsuit originated, to limit the settlement's scope and clarify that ASCs' facility fees aren't affected by it.

5. Tell me more ... and more ... and more. Some insurers'

requests for information start as innocent inquiries about the patient and treatment, but soon billow into a bottomless series of over-broad and intrusive questions about your center's ownership structure, training, procedures, equipment and regulatory compliance. In the meantime, your claim goes unprocessed and your payment is delayed, even after you've supplied the information. Document all communications with insurers and answer their requests for information promptly. Current law restricts these requests to patient- and treatment-specific information, so when they start going out of bounds, seek legal advice on how to respond. Insurers have asserted their right to pose over-broad information requests as a strategy to delay or deny payment, but the U.S. Supreme Court has scheduled arguments on the subject that could shut down this practice. Stay tuned.

6. Congrats, you're terminated! Insurers' contracts with physicians are generally terminable without cause, which can be devastating. One common cause is a physician's referral to out-of-network facilities. Ask your physicians to document any directions insurers have given them regarding limits on out-of-network referrals. They have the right to a hearing if they're terminated without cause, and they should demonstrate that they've been dropped for referring the patient to the care he needs. It may even be worthwhile to sue the carrier to stop termination activity.

7. Outside, looking in. Insurers have underpaid out-of-network providers millions by systematically reimbursing them as though they were in-network plan participants. Out-of-network ASCs should be paid accordingly, but they often book the underpayment and let the insurer continue short-changing them, unchallenged. Find out if your state's insurance regulators offer an arbitration program. (In New Jersey, it's the Department of Banking

and Insurance's Maximus arbitration process, which is straightforward and cost-effective, but does require you to pursue claims promptly or else they're considered stale.) Assert your claim to proper payment and you can recover the amount to which you're entitled.

8. Accepting denial. Many incidents of systematically delayed and denied payments occur because you let insurers treat you shabbily. To improve your chances for receiving correct and timely reimbursement, take these steps:

- Document all communications with insurers so you have specific information to refer back to in the event of disputes.
- Document your business contacts with patients, especially regarding their financial responsibilities.
- Notify your patient (and their employer's benefits coordinator) when an insurer wrongfully refuses to pay what it owes.
- Take charge of your collection reports to monitor trends in delayed or denied claims and to determine whether an insurer is running up a large account receivable.
- Use all available remedies, including arbitration, litigation and complaints to your state's insurance regulators, when insurers violate your right to reimbursement.
- Get involved with state and national ASC associations' efforts that advocate for legislative and regulatory change in the insurance industry.
- If you're out-of-network, discuss with your insurers whether and how going in-network would benefit your practice. **OSM**

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