

Maximizing Medical Expenses Requires Accurate Valuations

BY LAWRENCE LIEVENSE, FHFMA, FACMPE

Establishing the accurate dollar value of medical care may be a prime basis for maximizing an award or settlement however many considerations work to both decrease and increase the concept of that value.

Healthcare Valuations Are Complex

Some of the factors affecting what healthcare services are “worth” include a misunderstanding of the medical charge and payment process, case history (Hanif, et al), usual and customary evaluations, interpretations of “value” based on payments from third party payors, legislative actions driven by various political and activist agendas, the complexity of healthcare reimbursement, and an inaccurate understanding of how uninsured patients are charged. Establishing a defensible medical service valuation can be accomplished utilizing only medical records.

Retail Healthcare Pricing for All California Hospitals (Online at OSHPD.gov)

Is there a base line of retail healthcare prices which can be used to identify and compare the costs of medical services similar to the sticker prices on cars? Yes. In California, the Office of Statewide Health Planning and Development (OSHPD), Healthcare Information Division, Hospital Chargemaster Program posts on a public website the itemized charges for most licensed hospitals each year. AB 1045 (Chapter 532, Statutes of 2005) amended the Payers’ Bill of Rights established by AB 1627 (Chapter 582, Statutes of 2003). These statutes require all licensed general acute care hospitals, psychiatric acute hospitals, and special hospitals in California to make certain pricing information available to the public and to submit this information annually to the OSHPD. To view that pricing go to: <http://www.oshpd.ca.gov/hid/hospital/chrgmster/index.htm>.

Retail Healthcare Pricing for the “Top 25 Diagnoses”

Further, each hospital is required to provide a list of

charges for 25 common outpatient procedures and an OSHPD-developed list of charges for common inpatient diagnosis to any person upon request. To download State-wide Benchmark Top 25 Diagnoses, go to: <http://www.oshpd.ca.gov/HQAD/PatientLevel/index2.htm>. If the client/patient’s treatment at a specific hospital was for a procedure listed among the “top 25” then an immediate valuation is established—with a proviso that they are comparable.

Establishing the base, retail charges establish a valid and defensible valuation of medical services. It is important to note that the prices which appear on hospital itemizations, usually sent in response to a subpoena, are the same as the prices on the OSHPD web site.

Developing “Usual & Customary” Valuations

Development of price comparisons for the same service in specified geographical areas, generally known as “usual and customary prices,” is validly accomplished by comparing the service at similar hospitals. This activity may best be completed by an expert with healthcare financial experience as not all hospitals in an area provide the same service in the same pricing manner.

Hanif, et al

There is a body of law, usually cited as Hanif (Hanif v. Housing Authority, 200 Cal.App.3d 635 (1988)), which purports that the value of medical services is equal to the cash payment made by a third party insurance payor. This concept has found substantial favor and use among those seeking to reduce the value of healthcare services, notably insurance defense firms. The reality is that the base value of healthcare services at each hospital is equal to the pricing as listed on that hospital’s chargemaster – which is publicly posted by OSHPD. How much is actually paid for healthcare services is a separate issue from the pricing.

The valuation issue is further complicated by negotiated payments in a managed care environment. Some state that if a managed insurance company negotiates a 20% “discount” and pays only 80% of retail charges, then the value of those charges is equal only to what is actually paid – misinterpreted as 80%. In reality, managed care contracts include two separate types of payments – one type is cash and the other type is “in-kind” payments which are valuable, negotiated considerations provided by the insurance in return for a cash payment reduction. Examples of in-kind benefits include: more rapid claims payment, marketing programs, staff training and guarantees of limited denial/

Legal Notes

refund periods. A partial list of in-kind benefits is available at: www.LawrenceLievens.com.

Uninsured Patients Are NOT Charged More

The idea that uninsured patients are charged more than patients with insurance has recently received increased publicity. The contention is that hospitals overcharged uninsured patients and should charge the uninsured the same price as that given to contracted insurance companies. While this concept has value to some politicians and activist groups, the reality is that all patients in each hospital are charged exactly the same – the charge from the basic chargemaster. For example, when a charge slip reaches the posting department for a patient's lab test there is no indicator showing the payment or insurance status of that patient. The lab charge is posted to the patient's account along with the listed charge from the chargemaster. Further, it can be demonstrated that the uninsured pay substantially less than insured patients when factoring in the bad debt write-offs generated by the uninsured. This adds to the payments of the insured patients by thousands of dollars paid annually, sometimes for many years, for insurance premiums.

Audit the Medical Bill For Positive/Negative Changes in Valuation

Auditing a medical bill can often produce significant increases or decreases in the valuation. Medical charging in hospitals is a complex process which often fails to charge each patient for exactly the services rendered. Some charges are posted to the wrong account which incorrectly increases the charges and may provide a later challenge to the valuation accuracy. Some charges, known as 'late charges,' are not posted until after the itemized bill is printed and billed to insurance companies. Frequently an attorney's request for itemized charges results in only the services at time of billing being sent and do not include late charges or credit postings which take off erroneous charges. A professional hospital patient account director/manager regularly tests the accuracy of the charging systems by utilizing a 'chart audit program.' The author identified a consistent 17% undercharge while a receivables manager in a Ventura county hospital system a few years ago. It is fair to ask the hospital about the error rate on charging and if it is significant, consider an audit for your client's specific bill.

Auditing the financial postings to a hospital itemization can also produce significant changes in the valuation of services. Often when an attorney requests an itemized bill and payments, only the most available financial records will be sent. The attorney may not receive a variety of subse-

quent credits and debits to the patients accounts which may include late postings of payments, contractual allowances which are incorrectly posted and then removed, mis-posted payments or payments made due to billings which can be delayed months or even years. It is important to determine by auditing the hospital bill or by asking the hospital office if all bills to insurance companies have been submitted. Obtaining the complete, correct postings establishes an accurate, defensible valuation of the medical services.

What can be done if an itemization of charges is not available from a hospital? Perhaps the hospital lost the file (even electronic files are erased), or is responding too slowly due to staffing issues or is a hospital which does not utilize a charging system like military hospitals. A charge itemization can be developed from a medical chart review. The medically documented services are then priced using the OSHPD web site. Research care is required to post charges for similar-service hospitals in the correct geographical area; the result is a defensible valuation of medical services. This pricing process can also provide valuation for medical services related to a hospitalization including services for anesthesiologists, consulting specialists and others who provide medical record documentation of their activities.

Valuation of Foreign-Delivered Medical Care – An Expanding Expectation

Valuation of medical services received in foreign, non-U.S. facilities can also be accomplished utilizing charges developed from medical records. The accuracy of the valuation can be improved by utilizing the services of a translation service which uses medically-literate staff. Once the charges are translated into English, a U.S. dollar valuation can be developed using national or geographically specific chargemasters or references. Attention must be given to the reality that medical documentation requirements in foreign countries are not as rigorous as the U.S. Defensibility of the valuation is enhanced with a detailed statement of the process used in translation and charge research with disclaimers about possibly incomplete or missing information. The issues involved in establishing valuation for cases involving foreign medical services is expanding as U.S. residents utilize foreign healthcare for cost advantages, as U.S. insurances sell healthcare policies which cover medical services in foreign countries and as international travel outside the U.S. expands. ■

Lawrence Lievens will be presenting at the Elder Law Section Meeting on October 10. To learn more about this topic, RSVP for his seminar by contacting Jody C. Moore at (805) 604-7130.