

NEWS BULLETIN

An era of change...

Strategic considerations for Auto Insurers resulting from recent Ingenix Settlement

BY BARRY I. LEVY

Recently, New York State's Attorney General and a major healthcare insurer reached an agreement requiring the insurer to cease using the Ingenix database. The settlement requires the health insurer to eliminate the databases which have been maintained and marketed to the insurance industry through the Ingenix business group. For more than fifteen years, the Ingenix database has set benchmarks concerning the usual, reasonable and customary fees for healthcare services rendered in various geographical regions. The Ingenix database has been used by many healthcare, automobile and other insurers for determining reimbursement amounts.

Pursuant to the settlement, the health insurer agreed to finance the creation and operation of a new database to determine the prevailing costs of medical care in specific regions. Significantly, physicians will not receive any form of restitution as a result of the settlement.

These events present significant challenges and risks for automobile insurers nationwide both retrospectively and prospectively. Automobile insurers historically have been among the class of insurers who directly, or indirectly, through medical management adjudication systems, have used the very

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CARRIER

PATIENT AND INSURED INFORMATION

HEALTH INSURANCE CLAIM FORM

1. MEDICAL GROUP (MEDICARE, MEDICAID, CHAMPUS, CHAMPVA, GROUP, FECA, OTHER)

2. PATIENT'S NAME (Last Name, First Name, Middle Initial)

3. PATIENT'S ADDRESS (No. Street, City, State, ZIP Code)

4. PATIENT'S DATE OF BIRTH (MM, DD, YY)

5. PATIENT'S SEX (M, F)

6. PATIENT'S STATUS (Single, Married, Other)

7. INSURER'S NAME (Last Name, First Name, Middle Initial)

8. INSURER'S ADDRESS (No. Street, City, State, ZIP Code)

9. EMPLOYMENT (Current or Previous)

10. EMPLOYER'S NAME (Full Name, School Name)

11. INSURER'S POLICY GROUP OR EFFICAN NUMBER

12. INSURER'S NAME (Last Name, First Name, Middle Initial)

13. INSURER'S ADDRESS (No. Street, City, State, ZIP Code)

14. INSURER'S PHONE NUMBER (Area Code, Number)

15. INSURER'S FAX NUMBER (Area Code, Number)

16. INSURER'S E-MAIL ADDRESS (E-mail Address)

17. INSURER'S WEBSITE (Website Address)

18. INSURER'S TOLL FREE NUMBER (Toll Free Number)

19. INSURER'S CHIEF OF SERVICE (Chief of Service)

20. INSURER'S SPECIAL SERVICES (Special Services)

21. INSURER'S OTHER INFORMATION (Other Information)

same Ingenix database scrutinized by the New York State Attorney General.

Automobile insurers have not, thus far, been targeted by wide scale individual or class based litigation challenging their use of the Ingenix database. Some predictions are, however, that a wave of litigation will soon follow against automobile insurers. Simply, healthcare providers or patients will seek recovery of amounts that automobile insurers have disallowed. The potential for litigation against automobile insurers is heightened by the fact that several major healthcare insurers have recently announced multimillion dollar settlements regarding the Ingenix database. For example, one healthcare insurer is reported to have reached a settlement with the American Medical Association. This settlement includes the establishment of a fund to pay more than \$350 million. In addition, another healthcare insurer is reported to have reached a similar settlement which will result in the payment of \$20 million. These settlements, and those which are likely to follow with health insurers, will fuel litigation against automobile insurers on the same basis.

Additionally, automobile insurers need to evaluate strategic alternatives to the Ingenix database. This evaluation should be a key component of the business models considered on a going forward basis because there has been no determination as to whether a new database would result in an increase or reduction of reimbursement rates.

Many healthcare economists are predicting that costs will increase because any new database is likely to incorporate concepts that will be incapable of placing appropriate checks on healthcare costs. Some have argued that it will be very difficult to protect patients and insurers from service fees that are already inflated because of factors such as market prices, inflation trends and other external economic forces. For example, if all of the physicians in a geographical area decide to increase

their rates by 20% in the same year, a UCR database would have no way of calculating an appropriate reimbursement rate. As a result, there would be a reasonable likelihood that the UCR calculation would dramatically increase even if it were not justified. While different methodologies have historically been used to attempt to address this circumstance by adding a limiting factor on cost increases or tying charges to core expenses (materials and labor), these could prove to be irrelevant in future models where UCR determinations are largely driven by what healthcare providers charge without taking into account new technologies that ultimately reduce their time and expense.

Undeniably, this is a time of great change and uncertainty in the healthcare arena. In light of these recent events, consideration must be given to the development and implementation of alternative claim reimbursement strategies. In addition, risk assessment should be undertaken in relation to potential litigation resulting from the direct or indirect application of the Ingenix database. We welcome your questions and comments.

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