

MED-PAY AGAIN

I have been working on Personal Injury cases for 31 years. At least 20 years ago I started lecturing about Medical Payments usually referred to Med-Pay. The topic of Med-pay continues to be number 1 area that doctors ask me the most questions about in these seminars. I don't mind the questions, in fact they should be asked because Med-Pay is the best guarantee to getting your bills paid.

Med-pay is, essentially, an optional part of automobile insurance that provides for payment of chiropractic, acupuncturist, physical therapy, and other medical bills for the covered individual who has been involved in a traffic accident, regardless of who was at fault for that accident. Recently, I have received several questions about med-pay that made me think I should give doctors an updated lecture on how and when to bill Med-Pay in 2017.

Common issues that prevent the best use of Med-Pay include:

1. The biller used by the doctor, in house or from a paid biller, lacks sufficient knowledge to bill Med-Pay correctly or doesn't bill it at all.
2. Not realizing that patients with Med-Pay coverage still need legal representation to make sure you get maximum payment;
3. False assumptions that needlessly derail Med-Pay as an effective means of getting some or all of the bills paid (such as the patient believing, "It wasn't my fault so I shouldn't use my Insurance" or "If I use my insurance my premiums will go up" or "My bills can just be paid from the case/claim").

An even more basic error, is that many doctors continuing to work with attorneys who "steal" or control the Med-Pay. From a legal standpoint who owns the med-pay? The client does and as the legal representative of the client his attorney has the legal right to collect and control the med-pay payouts. Is that right? Ethical? I don't think so but it is not illegal. Personal injury claims should be the most remunerative part of your practice and you as the health care practitioner should have direct access to the Med-Pay payments via proper billing. There is only 1 reason that an Attorney will collect the med-pay and not let it flow directly to the treating doctor. Anyone know what that is? So that the attorney who has control of the med-pay funds has leverage to cut your bills at the end of the case.

Additionally, to the extent that it is possible, you should educate your patients and insist that they buy the proper type of Med-Pay, in the proper amount, as this will both protect them and also help make personal injury cases the most profitable part of your practice in the long run. In practical terms this means they should purchase Primary Med-Pay (which is discussed further below). As the name implies, this is a first-payer. It does indeed benefit your patients. Whereas regular private health insurance is very costly for most people and may not even cover your services, your patients will almost always be able to afford the relatively small cost of adding Med-Pay coverage to their automobile plan, and thereby have ready access to chiropractic, acupuncture, and physical therapy treatments in the event of an automobile accident.

Before I discuss the common issues mentioned above, I would first like to mention a few articles I have previously written about Med-Pay and its nuances. These are available on our website www.NealSobol.com . In particular, there are three articles which will clarify the subject: *“Dissecting Your Insurance Coverage: What is Med-Pay”*; *“Consider Medical Payment Coverage as Part of Your Automobile Insurance”*; and, *“More About Medical Payments Coverage.”*

KNOW HOW TO BILL MED-PAY: WE CAN HELP

Your biller definitely should be familiar with the three articles mentioned above. Additionally, if you are working with our office we will call your office and send a letter to provide you with the key information for billing the available Med-Pay (contact information of the company, claim number, amount and type of Med-Pay, etc.).

Knowledge of the type of Med-Pay is particularly important: “Primary Med-Pay” can be billed immediately and directly to the patient’s automobile insurance carrier, and can be paid directly; “Excess Med-Pay” only comes into play after you have billed your patient’s private health insurance carrier. It only pays after a denial from, or limited payments by, your patient’s private health insurance coverage (Blue Cross, Aetna, Kaiser, etc.). We can also help to provide you with a declaration of no private health insurance in those cases where your patient has no such insurance, but does carry Excess Med-Pay.

There are other possible twists-and-turns in Med-Pay billing with which we can also assist. For example, if your patient has Excess Med-Pay on their automobile coverage, but they also are Medicare/Medi-Cal recipients, you would not first bill Medicare/Medi-Cal before submitting your bills to the Med-Pay carrier – instead you would bill the Med-Pay directly. In such a case the Excess Med-Pay effectively becomes Primary Med-Pay. But, in these instances your biller should also contact the patient’s carrier and confirm that no deductible applies because some insurance companies “protect themselves” – meaning enrich themselves – by writing into the Excess Med-Pay contract that a deductible will apply to the insured/patient in the event that they do not carry private health insurance at the time of an accident.

I would also suggest that about two weeks after treatment starts your office should begin billing the Med-Pay, naturally using the appropriate codes. If any questions arise, either I or someone from my office will be available to help. Within a week of your first billing, you should follow up on the status of your billing with the carrier. This is well worthwhile as it often focuses the adjuster on your claim and picks up any concerns, thereby avoiding unnecessary delays. It’s also a good idea because you will be surprised to find that in many cases the adjuster “didn’t receive” your billing the first time sent, which also causes delays.

CLIENTS WITH MED-PAY STILL NEED REPRESENTATION

I appreciate the fact that many of your patients may have been with you for a long time and others, although new, are also honest people who sincerely want to improve their health. But I also know that there have been instances where some unrepresented patients, for a variety of reasons, simply collect the Med-Pay from their own insurance company and promptly use it for something else, leaving the doctor unpaid or only partially paid for services that should have been covered by the Med-Pay. These types of problems have arisen even in cases where the doctor thought he was protected by having obtained and sent a patient’s “assignment of benefits” to the Med-Pay carrier. If I am representing your patient in the injury claim, I can ensure that available Med-Pay is properly used as intended with payment made for treatments rendered. This protects you as well from some of the inherent risk.

It also protects the patient too. For example, if an individual won't avail of legal representation but instead proceeds to activate the Med-Pay from their coverage (even paying every cent to the treating doctor), and then goes on to settle the claim themselves in direct dealing with the adjuster, they are likely to get some surprises. In the first place, it is a plain fact that monetary settlements to unrepresented patients routinely are much lower than to clients with legal counsel (sometimes scandalously lower). One reason for this is that your patients typically won't have knowledge or experience in negotiating and placing a value on the "pain and suffering" component of their claim, and insurance adjusters will take advantage of this. Secondly, after having accepted an unreasonably low sum to settle their claim, your patient almost certainly will learn from their own insurance company that reimbursement is required from the (low) settlement for the Med-Pay money paid out! Understandably your patient will be upset and almost certainly won't know what to do about this.

I hope it's clear from this seminar that there is something to know about Med-Pay and its proper use and billing. It is an area of knowledge with some twists and turns where legal expertise can be very valuable – if for no other reason than insurance adjusters will misrepresent the terms of the Med-Pay contract with your patient, or at least fail to adequately inform your patients of the relevant terms, and it is very likely that your patient won't have taken the time to read and become familiar with the details of their coverage contract.

Some of the legal aspects can involve and affect the treating doctor as well. For instance, you are treating members of the same family for separate accidents and might find out from these patients that they carry Excess Med-Pay, but with different insurance companies. Knowing the difference between that and Primary Med-Pay, you first submit bills to the private health insurance carrier (let's say they both carry Blue Cross for private health insurance) and it then pays you \$30 for the visits by these patients.

Theoretically you can then bill each patient's Excess Med-Pay carriers (remembering that there happen to be two different carriers in this instance). For contractual reasons you may then be limited to accepting only the \$30 paid by Blue Cross with regard to one of the patients, whereas with regard to the other patient from the same family (who carries Med-Pay with a different insurance company), you may be entitled to bill the unpaid balance (beyond the \$30 already paid) and be paid that balance from the Excess Med-Pay! At times like this it's helpful to have a competent attorney representing your patients in their claims. But there will be other times too.

YOUR PATIENTS MAY BALK AT USING THEIR MED-PAY, BUT FOR ALL THE WRONG REASONS

Too often clients don't understand their own coverage, or make false assumptions about it. I don't fault the clients for this because these issues are often fostered by insurance companies in my view. For instance, after all these years I still find clients who are worried that their insurance rates will rise if they use their Med-Pay. I have to remind them that they have paid a premium for this coverage in case they are involved in an accident, and that use of their Med-Pay can never be a basis for increase of premium. Paying a premium for Med-Pay (in some cases) for years and then not using it is an obvious waste of money. But people become cowed by insurance companies into thinking this way.

In case you run into this type of thing I will first include here a quote from the California Department of Insurance publication "Automobile Insurance Information Guide" that can be found at www.insurance.ca.gov . This guide poses and answers the following question:

"Does my auto insurance company charge me more if I have an accident?"

Answer: If the accident is not your fault, your insurance company does not charge you more. If you are at least 51% at fault, your premium can go up when you renew your policy. This increase is called a surcharge." (Emphasis added).

In many instances an insurance company will not even increase the premium where there has been just one accident, even if the driver has been 51% or more at fault. So then, even when at fault, it is not certain that there will be a premium increase. But remember too that the Med-Pay portion of the coverage exists on the policy without any relationship to fault. Once the client/patient understands these points there usually is no objection to using the Med-Pay.

A variation of this issue is that the patient/client mentions that they “do not want to use my insurance because it was the other driver’s fault.” It seems to offend their sense of justice or fairness. The obvious response to that is that we are going to the other driver’s insurance for compensation for injuries, treatment, pain and suffering and property (and loss of income if it exists). We are only accessing his own insurance for Med-Pay since he has paid a premium for it so that his bills can be immediately covered. This too is easy to resolve.

Finally, it’s worth remembering that the basics of billing and getting paid by Med-Pay really don’t change that much from case to case. They are repeated with only slight variation with each new patient whose policy contains that kind of coverage. So, once you set up these effective ways of getting paid via Med-Pay, you just repeat them over and over again. This makes the whole process easier and more routine. It really can be the gift that keeps on giving!