Dynamic Chiropractic

CHIROPRACTIC (GENERAL)

Appealing Adverse Hospital Determinations

John Cerf, DC

After seven years, entering the hospital emergency department (ED) feels as comfortable as entering my own office. As new members of the medical and nursing staff join the ED team, the existing staff proudly introduces our chiropractic service as if it always has been available. However, an occasional insurance claims representative, unfamiliar with chiropractic in the hospital setting, might reject the claim upon first submission.

The most important part of appealing an unjustified denial is the initial documentation. Progress notes need to be written, not just to document the disorder and the care given, but to justify the visit to the claims representative, appeal administrator and arbitration judge.

Before the establishment of managed care organizations, the following were the customary reasons given for medical necessity:

- Because I say so.
- Because I am a doctor, and I say so.
- Because I've been doing this for 30 years, and I say so.
- Because I've supplied a page from a textbook, and you should figure out a way to apply it to this situation for me.
- Because I think you are wrong, and you should look at it again.

With increasing scrutiny from the insurance companies comes the need for a systematic method of applying logic to unjustified rejections. A logical appeal begins with a theory, followed by evidence, summary and request. An appropriate theory concerning an appeal of denial for chiropractic care in the ED might be as follows:

> According to the EMTALA statute, an unstable patient cannot be discharged from the emergency department. A patient in severe pain is considered to be unstable. According to the ERISA statute, only the attending physician with knowledge of the patient's condition can make a determination concerning the stability of the patient. In this case, the attending emergency department physician determined that the patient was not responding sufficiently to analgesic medication and chiropractic care was indicated so the patient could be discharged.

Supportive evidence follows the theory. In this example, evidence might be as follows:

> The patient presented to the emergency department with a Visual Analog Scale (VAS) reporting of 9/10. The patient was medicated with Toradol and continued to report a VAS score of 7/10. Due to the patient's history of narcotic abuse, the attending emergency department physician determined that a chiropractic consultation was the best option for

> controlling the severe pain so the patient could be discharged. Following chiropractic treatment, the patient reported a VAS score of 4/10 and was able to be discharged from the hospital.

After stating the evidence, restate the theory and possibly a synopsis of the more important evidence. Then, make your request. Continuing the above example, one might write:

> "An unstable patient cannot be discharged from the emergency department. This patient had extenuating circumstances that prevented the pain from being relieved by more routine methods. It was the opinion of the attending emergency department physician that chiropractic was the best form of treatment for this patient. Following treatment with chiropractic, the patient was able to be discharged. I respectfully request that you reconsider payment for the chiropractic services I rendered."

Many of us have experience with submitting a well-thought-out appeal, only to be answered "NO!" in a form letter, with zero accompanying rationale. The appearance is that nobody actually read the appeal. Rather than getting angry, follow the next step of the appeal process. It is very unlikely that an insurance representative will respond well to an angry response. It's more likely the representative simply will move your angry letter to the bottom of the pile.

Sometimes, the follow-up is an additional appeal within the company. Sometimes, it's to request an external appeal. It might be to send the matter to arbitration or to initiate litigation. It's important to think of the third and fourth steps when authoring the initial appeal. When writing the initial appeal, consider all who may be viewing the document in the future. At some future step, someone eventually will read and consider the logic of your argument.

You may want to think of an appeal as a negotiation. One of the best negotiating styles is to try to avoid taking sides. People on opposite sides of an issue have to defend more than their point of view. They have to defend their ego as well. Since nobody likes to be wrong, try to find a way around proving that the other side is mistaken.

Instead of taking sides, try to identify a common goal and work with the other party toward solving that goal. Try to agree up front that both the insurance carrier and you are concerned about the best interest of the patient. Then discuss how covering the chiropractic service in the hospital is in the best interest of both the patient and insurance carrier.

Use precedents to demonstrate the validity of your request. For example, chiropractors routinely see emergency visits in their offices. The insurance company reimburses for emergency visits in the office. The insurance company also reimburses for emergency visits outside of the office (i.e. the patient's home). It therefore follows that the patient's need, and not the location of the service, should determine reimbursement policy. I like to advise the non-paying representative, "I have seen thousands of patients in the ED over the last seven years and a company's failure to reimburse for my services is the exception and not the rule." When using this last statement, have a sanitized "Explanation of Benefits" available, as the representative may request them.

Cite authority in your appeal. Perhaps you are the authority by virtue of being the chief of the hospital department or an officer in a chiropractic association. Are you a member of your state association's

hospital relations committee? Are you a member of the AAHC?

I am of the opinion that your receptionist should not handle appeals by choosing from a selection of form letters on her desk. Author the appeal yourself. First, obtain the denial rationale from the carrier. Then, formulate a theory to refute the carrier's denial rationale. If the insurance company's rationale for denial is valid, drop the claim. Using weak or faulty logic damages both the reputation of the provider and the profession.

Once you have decided that your theory is more valid than that of the insurance company, support the theory with evidence from your initial documentation and from accepted precedents and authorities. When time constraints prevent you from handling additional follow-up, refer the matter to an appeal representative with experience in hospital chiropractic appeals.

If hospital chiropractic is new to your area, you will have to work with an appeal agent, as I did with Steve Lisner at PIP Collections, LLC in Somerville, N.J. As I educated Mr. Lisner in the rationale behind chiropractic treatment in the hospital, he applied his understanding of the insurance industry to develop an approach to handle those claims for which I could not afford to devote any additional time.

Consuming the provider's time is a winning strategy for the insurance company with the unfortunate side effect of taking time away from current patients. Investing some time in educating an outside appeal agent and then utilizing their services, keeps your hands where they belong - on the patient's back and away from the typewriter keys.

When formulating an appeal, try to establish and agree on the rules of negotiation first. Investigate and use insurance company policy, state regulations, hospital guidelines, etc. Both the ERISA and EMTALA statutes are valuable sources of information on standards. Attempt to convince the insurance representative to agree on the appropriate guidelines, relate your theory, provide evidence, summarize and make a reasonable request. Initiate and author the appeal yourself. Only appeal reasonable claims. Rather than consume all your time with appeals, decide on a point at which you will refer the matter over to an outside appeals representative. Using this logical appeal method will help to educate providers, generate appropriate reimbursement and, most importantly, help lead to greater availability of chiropractic services for patients within the hospital system.

NOVEMBER 2007