

Uninsured Patients and Fee Adjustments

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In 2003, 43.6 million persons of all ages were uninsured, as reported by the National Center for Health Statistics.¹ Most practices are unable to offer fee adjustments to a large number of their patients. However, if the bad debt write-offs were reviewed with a critical eye, most would find services were rendered to many who have little or no means to pay.

Take control of the situation – write policies and train your staff. Have your practice ready to handle uninsured and medically indigent patients.

According to the Office of the Inspector General (OIG) you may waive fees and offer discounts, but within the following guidelines:²

- Offer no inducements to avoid anti-kickback implications.
- Treat Medicare and non-Medicare patients equally, i.e. discount opportunities and collection efforts.
- Have written policies.
- Obtain and keep documentation.

Before implementing a financial assistance program, check reimbursement contracts to see if lesser of costs or charges (LCC) principles are in place. LCC was a popular feature in the 1980s and 1990s, when Medicare paid hospitals the lesser of the hospital's costs or charges.

Confirm that no “most favored nation clause” applies to

any payer contracts. This clause allows the insurance company or federal agency to pay at the lowest charge that the practice bills to any patient. Note: Before a practice accepts a special grant or contract, review all federal and insurance contracts to confirm that there is no pricing conflict.

Review your compliance plan and office policies. Make changes to allow for the option of financial assistance.³

Policy Example:

FEE ADJUSTMENT POLICY*

It is the general policy that **Practice X** does not offer sliding scales and adjusted fees. However, we do recognize that a patient may experience temporary financial difficulty. **Practice X** will review each request on a case-by-case basis. The agreement to reduce the full fee is made without prejudice to **Practice X's** right to obtain the full fee under certain circumstances, including the patient's failure to pay the reduced fee. The patient must complete an application. **Practice X** reserves the right to limit the number of adjusted fees due to financial hardship.

If the patient is within the federal poverty guidelines, federal or state medical financial assistance must be sought.

*For those patients who do not qualify for federal or state assistance and/or have no health care insurance policy that would cover the fee, or would become medically indigent.

2004 Federal Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Number in Family	Gross Yearly Income	Gross Monthly Income
1	\$9,310	\$776
2	\$12,490	\$1,041
3	\$15,670	\$1,306
4	\$18,850	\$1,571
5	\$22,030	\$1,836
6	\$25,210	\$2,101
7	\$28,390	\$2,366
8	\$31,570	\$2,631
Over 8 add for each person	+\$3,180	+\$265

Source: Federal Register Vol. 69, No. 30, February 13, 2004, pgs. 7335-7338

Write a Fee Adjustment Policy

A fee adjustment policy is required by the OIG.⁴ Include a statement “made without prejudice,” that allows you to collect the full fee if the patient fails to pay the adjusted rate. Most practices do not implement this option, but let the patient know that the practice could turn the account over to a collection agency for the full amount, if the agreed amount is not paid.

Train Your Staff

Designate a person to handle fee adjustments. If a patient expresses difficulty with paying for services, have the patient speak privately with this “financial counselor.” If the patient's family income is within the federal poverty level guidelines, consult your state's medical guidelines for the eligibility requirements for medical financial assistance. Whenever

possible, the patient should apply for federal or state assistance first, prior to your practice adjusting fees.

It is best to assist with the application process. This is a great value-added service and keeps you focused on the goal – less bad debt write-offs, and more paying patients. Also, check with your state assistant program, as there may be a grant available for those who assist with the application process.

Prepare an In-house Application

Keep it simple. There is no need to implement a full financial interrogation – basic due diligence will meet the OIG guidelines.

Confirm Income Levels

The following provides guidelines on what to review on various documentation. Keep in mind that some circumstances may make it difficult for the patient to obtain tax returns. Be flexible. You will most likely find that your patients value the doctor's services and will do whatever they can to pay. Patient's who are up front regarding their financial situation are the ones who want to pay.

ON FEDERAL TAX RETURNS, CHECK:

- Adjusted income – Is it within the eligible guidelines set by your office?
- Interest income – Indicates money in a savings account.
- Alimony – Perhaps an ex-spouse is responsible for the care.
- Earned income credit – An indicator of the patient's low financial status.

ON PAY STUBS, CHECK:

- Deductions – Is there a deduction for medical insurance?
- Is the patient working full time? (Check the number of hours worked.)

ON A RECENT W2, CHECK:

- Are taxes withheld? If yes, the patient probably filed a tax return to obtain refunds. Request a copy of the tax return.
- Are the year-to-date wages within your guidelines?

With pay stubs and W2s, it is impossible to determine if the wages earned represent full- or part-time earnings, or if it is the only pay stub and W2 for the year. However, it may be the only documentation that the patient can provide.

IF THERE IS NO DOCUMENTATION AVAILABLE:

Require documentation. If the patient has nothing to confirm his financial status, you may want to suggest that the patient go to a free clinic or apply for hospital free care.

Extraordinary Expenses

In some cases, income is not the deciding factor for fee adjustments. A patient may have situations where they are responsible for extraordinary expenses. Request a short paragraph describing extraordinary expenses.

Hospitals Beware!

“Non-profit hospitals – which make up 85% of the nearly 5,000 hospitals nationwide – have come under particular scrutiny because they are expected to provide community benefits, including charity care, in exchange for freedom from federal, state, and local taxes,” writes Julie Appleby for *USA Today*.

Many non-profit hospitals are having their status challenged, and many have already lost their status. Rick Wade, Senior Vice President at the American Hospital Association said, “Every hospital in America that is granted tax-exempt status should be prepared to stand up in public and articulate what they do for the community.”⁵

Hospitals should be able to prove the charity care they provide. Richard Scruggs, the lawyer noted for beating big tobacco, is one of a group of lawyers who have filed 48 class actions against more than 400 nonprofit hospitals. “All with a similar complaint: that the hospitals are charging the uninsured grossly inflated prices, dispensing a tiny fraction of their revenues in charity care, engaging in abusive collection tactics and in some cases, using accounting gimmicks to mask their wealth and enrich executives.” Scruggs is challenging hospitals' markup costs and their aggressive pursuit of “payment for full charge.”⁶

Tax Issues and Cancellation of Debt

An adjustment or a write-off of a patient's bill is treated as a deduction for tax purposes only if the office is on the accrual basis, i.e. the office recorded a revenue item when the patient was billed. No deduction will result if the office is on the cash basis, i.e. revenue is recorded when the payment is received.

If the practice discharges a debt, the patient realizes income to the extent that the debt is forgiven. (Code Section 61(a)(12). Exceptions *may* apply (but not always) in several situations, such as discharge of debts in bankruptcy proceedings, when the patient is insolvent outside bankruptcy, and others. See Code Section 108 for the full details.

Cancellation of debt occurs when the practice releases the patient from the obligation to pay. (A fee adjustment, discussed previously, is not a debt cancellation. The adjust-

ment is made before services are rendered.) The patient should consult a tax advisor regarding the proper treatment of the cancellation. The practice has no obligation to issue the IRS Form 1099-MISC to the patient whose debt was cancelled.⁸

Summary

Train your staff. Write policies. Practices should prepare to handle uninsured patients before they become bad debt statistics. Hospitals should prepare for scrutiny from the IRS, and in some cases, a court challenge.

References

¹ Cohen, Robin A., PhD, Zakia Coriaty-Nelson, MPH, "Health Insurance Coverage: Estimates from the National Health Interview Survey, 2003," The National Center for Health Statistics, 2003.

²Federal Register Vol. 69, No. 30, February 13, 2004, pp. 7335-7338 OIG Web site.

³"Frequently Asked Questions on Charges for the Uninsured," <http://cms.hhs.gov>, Feb. 17, 2004.

⁴U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, "More Children than Ever had Health

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U.S. Department of Health and Human Services, "Text of Letter from Tommy G. Thompson, Secretary of Health and Human Services to Richard J. Davidson, President, American Hospital Association," Feb. 19, 2004. (<http://www.hhs.gov/news>)

⁵Appleby, Julie, "Scales Tipping Against Tax-exempt Hospitals," *USA Today*, August 24, 2004, USA Today.com.

⁶Fonda, Daren, "Sick of Hospital Bills," *Time*, NY, September 27, 2004, pgs. 48-52.

⁷Freeland, James, Stephen Lind, Richard Stephens, *Fundamentals of Federal Income Taxation*, Eighth Edition, pgs. 179-181.

⁸IRS Instructions to Form 1099-MISC.



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