

On Physician Discounting for Uninsured Patients
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Executive Summary: The NMMS Ad Hoc Committee on Uninsured Patients concluded *that physicians can offer discounts to uninsured and underinsured individuals. However, physicians should be consistent in how they determine medical indigency, and how they offer discounts.*

“The Facts of Health Care: The Uninsured Are Billed Sharply More,” Wall Street Journal, March 17, 2003

“Hospitals sock uninsured with much bigger bills” USA Today 2/24/04

How much the uninsured and “self-pay” patients are charged for health services was extensively reported in the media last year. The above articles reported that hospitals were charging uninsured patients substantially more than what they would have received in payment from government payers or commercial insurance companies. Lawyers filed suits against hospitals for overcharging uninsured patients and using aggressive measures to collect, including bill collectors visiting patients while still admitted to the hospital, imposing liens on property and possessions, garnishment of wages, seizing tax refunds, turning over patients to collection agencies, and putting out arrest warrants for debtors who missed court appearances.

Uninsured and “self-pay” patients lack the leverage to negotiate fee discounts. “Self-pay” patients include fee-for-service patients who are paying out-of-pocket because they have not reached their deductible, and those individuals paying for services out of medical savings accounts (MSA’s). While much of the media attention has focused on hospitals, doctors have faced increased scrutiny of billing practices.

Two in five U.S. adults in 2003 had problems with their medical bills or accrued medical debt (Commonwealth Fund’s Biennial Health Insurance Survey). New Mexico has the highest percentages of its population that is uninsured (23%) of the states, and one of the lowest per capita incomes. Thus these issues directly affect our patients. Some New Mexico physicians expressed concern that Medicare prevents offering discounts to uninsured patients.

At its May 2004 Annual Meeting, the New Mexico Medical Society passed Resolution B-204 which resolved that NMMS convene a working group of experts to study, to summarize findings, to educate physicians and to make policy recommendations as appropriate about health care providers providing discounts to uninsured individuals. It also resolved to conduct a study of its members to determine the current practices related to uninsured New Mexicans.

The NMMS Ad Hoc Committee on the Uninsured met, reviewed materials, heard presentations, made recommendations, summarized its findings and reported to the NMMS Council. **The bottom line:** Physicians can offer discounts to uninsured and

underinsured individuals. However, physicians should be consistent in how they determine medical indigency, and how they offer discounts.

As reported by the AMA in 2001:

“Most recently, the Office of the Inspector General and the final rule on the fraud and abuse provisions contained in the Health Insurance Portability and Accountability Act of 1996, have taken the position that physicians are still prohibited from collecting more from Medicare than they usually accept from private payors. In theory, providing discounts to individuals could result in a physician being barred from participation in Medicaid and Medicare. At present, this scenario is unlikely given that the law as clearly never intended to discourage fee discounts to low income or uninsured patients, and that the physician would have to charge a large portion of his or her fees substantially below Medicare and Medicaid rates in the physician’s locality. In the future, however, the proportion of a physician’s patients who had MSA-type products and who were not necessarily low-income could become large enough to trigger concerns about violating the law, if such patients routinely paid less than Medicare and Medicaid rates, and if the physician did not reduce charges to Medicare and Medicaid accordingly.”

In his 2/19/04 letter, Tommy G. Thompson, Secretary of Health and Human Services, clarifies the issue: “...hospitals can provide discounts to the uninsured and underinsured patients who cannot afford their hospital bills and to Medicare beneficiaries who cannot afford their Medicare cost-sharing obligations. Nothing in the Medicare program rules or regulations prohibit such discounts. In addition, the Office of the Inspector General (OIG) informs me that hospitals have the ability to offer discounts to uninsured and underinsured individuals and cost-sharing waivers to financially needy Medicare beneficiaries.”

While the Secretary’s letter relates to hospital charges, subsequent answers to frequently asked questions of the OIG, give physicians an approach to discounting fees to uninsured patients. For example, the physician or physician group might want to develop an “indigency policy” for discounts given to uninsured or to “medically indigent” individuals. Medically indigent individuals may have insurance without full coverage for all of their medical expenses. Paying those full expenses would make them indigent. If an individual does not have the means to pay co-pays or deductibles, the provider can discount the charges related to the unpaid deductibles. Medicare does not prescribe rules for providers to make indigency determinations. The provider is allowed to make business judgments to determine whether a patient is indigent, and whether a patient will receive a discount based on the physician’s or group’s indigent discount policy.

An example reviewed by the Ad Hoc Committee was the University Physicians Associates: Discounts to Uninsured Patients Who Fall within Federal Poverty Level Guidelines. UPA policy discounts 45% of its charges to uninsured patients who fall between 235 to 350% FPL, including discounts to undocumented immigrants. This is consistent with University of New Mexico Hospital discounts for indigent patients.

In summary, physicians can offer discounts to uninsured and underinsured individuals. The policy for determining medical indigency, and for discounting charges should be clear and consistently applied.

References

1. S. R. Collins, M. M. Doty, K. Davis, C. Schoen, A. L. Holmgren, and A. Ho, *The Affordability Crisis in U.S. Health Care: Findings from the Commonwealth Fund Biennial Health Insurance Survey*, The Commonwealth Fund, March 2004.
2. L. Lagnado, "The Facts of Health Care: The Uninsured Are Billed Sharply More," *Wall Street Journal*, March 17, 2003
3. L. Lagnado, "Hospitals Try Extreme Measures to Collect Their Overdue Debts," *Wall Street Journal*, October 30, 2003.
4. L. Lagnado, "Twenty Years and Still Paying," *Wall Street Journal*, March 13, 2003.
5. D. Derksen, *New Mexico Uninsured by County*. UNM Center for Community Partnerships 2004.
6. Text of Letter from Tommy G. Thompson, Secretary of Health & Human Services regarding hospitals providing discounts to uninsured patients (<http://www.os.dhhs.gov/news/press/2004pres/20040219.html>)
7. Document: Questions on Charges for the Uninsured: (www.cms.hhs.gov/FAQ_Uninsured.pdf)
8. American Hospital Association (AHA) – Hospital Billing & Collection Practices: Statement of Principles and Guidelines by the Board of Trustees of the American Hospital Association
9. AMA report on issues in moving toward individually selected/owned insurance. December 2001. Page 286
10. NM Hospitals and Health Systems Association (NMHSA) - document on patient financial assistance; model patient financial assistance form
11. Document from New Mexico Health Policy Commission – County Funded Health Care Report Fiscal Year 2003, published 2/04