

MPAA/MAHAP FALL EDUCATIONAL CONFERENCE
SEPTEMBER 16-18, 2009

MANAGING THIRD PARTY DENIALS:
LEGAL ISSUES AND STRATEGIES TO IMPROVE
INSURANCE REIMBURSEMENT

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- I. Self Pay Issues
 - A. Spousal Liability
 - 1. Rule: Spouse is no longer responsible for medical expense of spouse.
 - 2. Exception: Signed Guaranty
 - B. Parental Liability
 - 1. Rule: Parents responsible for minor's medical expense.
 - 2. Exception: Emancipated minors:
 - Note: Custody irrelevant
 - Divorce Decree irrelevant
 - C. Partial Payments
 - 1. Rule: Acceptance of payment submitted as payment-in-full with knowledge of conditions is binding.
 - 2. Problem:
 - a. Lock box
 - b. Scams
- II. In-Custody Admissions
 - A. MCL 801.4

1. Defining “In-custody”
2. County Liability Specified

B. New Developments/Decisions

1. AG Opinion No. 7231
2. *Marquette General Hospital* (Michigan Court of Appeals, May 26, 2009)

III. No-Fault Insurance Updates

A. Framework for analysis

1. Is there a MVA?
2. Does Exclusion apply?
3. Priorities?

NB: No-Fault Booklets provided

B. Penalty Interest: MCL 500.3142

1. “Reasonable Proof” defined
 - a. *Williams*
 - b. *Resto*
2. No-Fault Billing Pointers
 - a. Bill early and often.
 - b. Bill No-Fault first.
 - c. Bill multiple carriers simultaneously if priority not clear.
 - d. Provide med records for inpatient hospitalizations.
 - e. Provide police report.
 - f. Send cover letter documenting information provided.
 - g. Send billings certified mail/return receipt requested.
 - h. Get denials in writing.

IV. Commercial Insurance Issues

A. Michigan's Prompt pay law: MCL 500.2006

1. Rule: Clean claims paid within 45 days
2. Enforcement: OFIR

B. Exhausting Plan Appeal Requirements

1. Evaluating Plan denials under ERISA
2. ERISA exhaustion requirements

C. Mistaken Payments

1. Rule: Refund required
2. Exception: Detrimental reliance

V. "Customary and Reasonable"/Auditing Update

A. No-Fault Act

1. MCL 500.3107(1)(a).
2. MCL 500.3157.

B. AOPP Cases

1. 2003 Court of Appeals Decision (*AOPP v Auto Club Ins. Assn*, 257 Mich App 365 (2003)).
2. 2005 Michigan Supreme Court Decision (*AOPP v Auto Club Ins Assn*, 472 Mich 91 (2005)).

C. Debunking Auditing Myths

1. Myth 1: Balance billing is illegal.
2. Myth 2: Carriers' determination of "reasonable charge" is binding.
3. Myth 3: "Reasonable Proof" is met when insurance company completes its investigation and audit.

D. Ingenix Update

1. Governmental investigations of United Healthcare/Ingenix

- a. New York Attorney General investigation
 - b. Hearings before U.S. Senate
- 2. Class Action Litigation
- 3. Michigan Activity
- 4. Challenging an Insurance Audit
 - a. Contractual Challenges
 - b. Litigation Challenges