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Health Law Client Action Alert

New Ohio Law Limits Anatomic Pathology Billings

Effective April 7, 2009, Ohio physicians are no longer permitted to bill for the professional component (“PC”) or the technical component (“TC”) of anatomic pathology services unless one of the following applies:

- (1) the services being billed are personally rendered by the physician or rendered under the on-site supervision of the physician;
- (2) the physician who performed the PC bills the amount incurred by such physician in having a clinical laboratory or another physician perform the TC or in obtaining another physician consultation regarding the specimen; or
- (3) as to dermatology specimens only, the billing physician performed the PC and discloses to the entity being billed the name and address of the clinical laboratory or physician that performed the TC, as well as the amount the billing physician was charged by (or paid to) such laboratory or physician.

The term “anatomic pathology services” includes histopathology or surgical pathology, cytopathology, hematology, subcellular or molecular pathology, and pathologist-performed blood banking services. Although the new law is similar in some respects to the Medicare anti-markup rule, there are important differences in the scope and application of these rules.

The law also prohibits clinical laboratories from billing any party for anatomic pathology services other than (1) a physician who is entitled to bill for those services, (2) the patient, third-party payor or other party responsible for payment, (3) a hospital, public health clinic or nonprofit health clinic, (4) a governmental agency or its representative, or (5) a referring clinical laboratory. The term “referring clinical laboratory” is defined to specifically exclude “a laboratory in the office of one or more physicians that refers a specimen and does not perform the professional component of the anatomic pathology service.”

The law does not specifically address billing by physicians' practice entities. However, it does prohibit billing by a physician "directly or indirectly" unless one of the exceptions applies. Furthermore, since a laboratory may not bill any person other than those designated above, the intention appears to be to prohibit billing by a physician's practice entity unless one of the exceptions applies.

This law is part of Ohio Substitute House Bill 493. A physician who violates this law is subject to disciplinary action by the State Medical Board.

Any physician who bills for anatomic pathology services, including through a practice entity, should consult with counsel concerning the implications of this law.

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If you have questions concerning this newsletter, please call Dennis Witherell, Jenifer Belt or Karl Strauss at 419-241-9000 or 800-444-6659.

This newsletter is designed to provide general information on matters of interest to health care providers and practitioners and is not intended to constitute legal advice.