

# Ulterior motives behind physician pricing transparency

Cost and quality transparency in medicine is generally a good idea. However, a few payers have recently disclosed that they are posting their heretofore confidential provider contract rates on the Internet for their members — and anyone else who can gain access to their sites. Other payers will follow suit. Payers hail this action as a good thing, but patients and providers need to know the rest of the story.

## Legal prohibitions for disclosing rates

Most payer/provider contracts prohibit providers from discussing rates with patients. Providers find this puzzling, since all explanation of benefits (EOB) forms clearly indicate the price charged, the contracted discount and the amount paid to the providers (the actual price of services). True, the EOB comes after the service is rendered, but in the absence of this contract provision, the vast majority of physicians would openly discuss rates before providing services. Providers are bemused by payers' sudden drive toward transparency because these companies routinely refuse to disclose complete contracted fee schedules and code bundling methods to their provider partners. Patients aren't the only ones in the dark.

Likewise, prohibitions against collusion have prevented independent physician practices from publicizing their contracted rates. Providers are barred from collective bargaining, even though 80 percent of group practices have fewer than 10 doctors<sup>1</sup> and thus have virtually no market leverage. Now it seems payers are getting a free pass to post rates and conduct indirect collective bargaining.

## Are payers seeking to disclose pricing indirectly?

So, with no physician market leverage to drive up prices, why would payers agree to higher fees for one physician over another? Payers negotiate pricing with providers based in large part on the quality of services and providers' reputations. By paying physician X more than physician Y, a payer has decided that physician X is worth more — for quality reasons, among others.

Why the sudden change of heart? Why does a payer suddenly believe patients would be better served by choosing a physician who it has determined is not worth as much as another physician?

Could this be a way for payers to gain even more market clout by indirectly disclosing the pricing they negotiate with providers? By doing so, implicit collusion can occur as other payers follow suit by reviewing and posting rates negotiated — *in confidence with physicians* — on the Web. During yearly contract negotiations, payers can now say, "Dr. X, I know you negotiated \$40 for this procedure with Aetna, so we won't pay any more than that."

## A transparency strategy intended to boost insurers' profits

Legal or illegal, will the cost savings gained by payers driving patients to the cheapest doctor (and thus lowering payouts) result in lower patient premiums, or will this effort enhance record profits *without* passing on savings to the patient? History leans toward the latter. And therein lies the real motive.

Issues of "quality transparency" also need to be addressed. A payer does a disservice to its members by posting nonstandardized "quality" data. The payer does not have the entire universe of procedures or outcomes

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for particular physicians in its panel — it only has those performed for its members. Likewise, many studies show contradictory evidence as to which treatment options are more effective. Will those disclaimers and education be part of the quality data displayed? Will payers tell patients that physicians who perform more procedures of a certain type are not necessarily overutilizers but are simply more competent in that procedure and are the referral choice of their peers?

Incomplete data are worse than no data, especially when there are disciplinary boards available to deal with incompetent doctors.

### Payers staying clear of hospital pricing, quality data

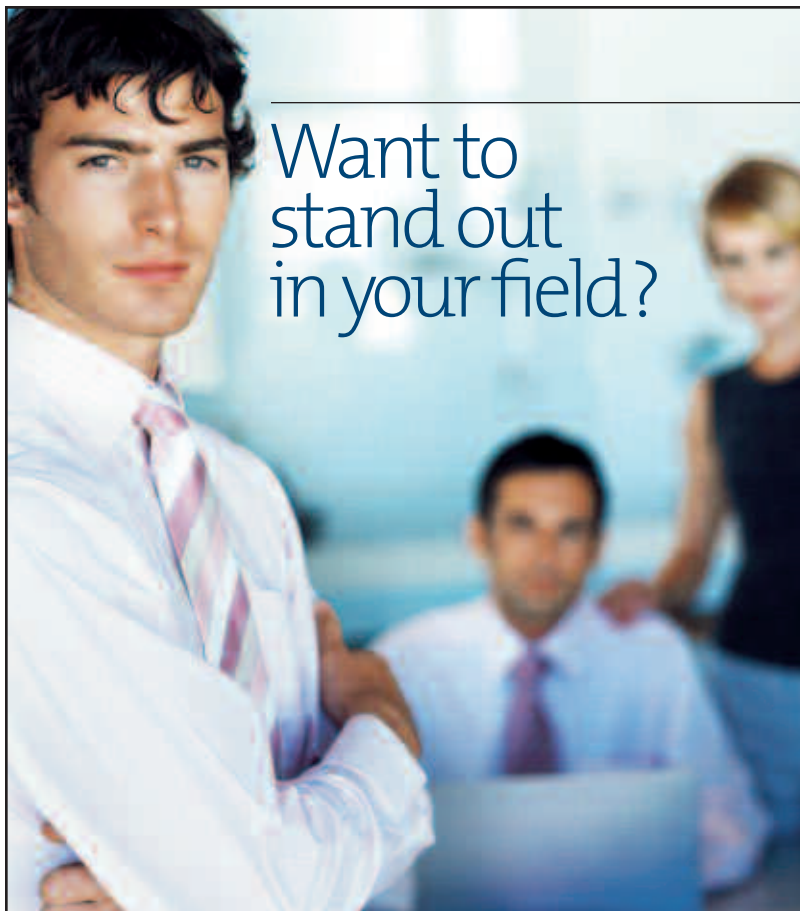
It's interesting that payers are not posting hospital pricing or hospital quality data, even though hospital costs drive 51 percent of health care inflation.<sup>2</sup> Is that because hospitals generally have financial leverage over the payers?

A study reported in *The Wall Street Journal*<sup>3</sup> showed that the top five payers had up to an 80 percent error rate regarding data in their physician directories. It seems reasonable to ask that before payers try to dictate what is "better" for their members, what defines "quality" or again try to practice medicine, they should heal themselves.

Someone once said, "People are not born stupid but are made that way by education." Payers should not be in the education business. ☕

#### notes

1. Medical group practices in the U.S.: A survey of practice characteristics. 1999, American Medical Association.
2. Tracking health care costs: Trends turn downward in 2003. Data bulletin no. 27. The Center for Studying Health System Change. June 2004.
3. Rubenstein S. Finding a doctor is as easy as, well, it depends. *The Wall Street Journal Eastern edition*; Aug. 3, 2006: D.1.



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