

LITIGATION MINUTE: CIGNA'S MODIFIER 26 REIMBURSEMENT POLICY

PAYOR-PROVIDER SERIES: PART TWO OF FOUR

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WHAT YOU NEED TO KNOW IN A MINUTE OR LESS

Many Florida hospital-based pathology groups have long-standing provider agreements contracts with Cigna. These contracts – specifically the contractually agreed-upon reimbursement rates for the professional component of clinical pathology (PCCP) found in certain Cigna contracts – have been called into question by Cigna's repeated discussion (over the last two years) of changing its "Modifier 26 Professional Component Reimbursement Policy."

Earlier this year, Cigna notified its participating pathology providers that, effective 1 July 2022, it would be unilaterally reducing PCCP reimbursement "to \$5" for PCCP codes billed with a 26 modifier.

In a minute or less, here is what you need to know about this policy.

Who Pays for PCCP as Part of Covered Laboratory Services?

The requirement that Cigna properly pay for PCCP as part of covered laboratory services goes beyond any contractual agreement and, indeed, is provided for under both the federal Affordable Care Act and the 2022 No Surprises Act, as well as Florida state law. Clinical laboratory oversight and supervision have repeatedly been upheld by the courts of Florida as medically necessary "approved physician care rendered to" patients, which must be paid for by commercial payors.¹

Moreover, the CPT Assistant, published by the American Medical Association (AMA) as the official interpretation of the CPT codes, has confirmed that there is a distinct and reimbursable professional component to hospital-based laboratory services. In May 1999, the CPT Assistant expressly recognized, "When the pathologist bills a professional component to a non-Medicare patient, no payment is made by the hospital to the pathologist for this service. The hospital's bill for the technical component covers hospital costs for laboratory equipment, supplies and nonphysician personnel—it does not include the professional services of the pathologist."

What Does This Mean for Payors?

If your group is participating with Cigna, it should carefully examine how its current claims are being adjudicated. Moreover, regardless of contract status, if your group's PCCP claims are now being denied or paid at low rates unilaterally set by Cigna or any other commercial payor, your group should meet with counsel to discuss potential legal recourse to seek full recovery of claims for these medically necessary and valuable professional services, for which you are both responsible and potentially liable.

FOOTNOTES

¹ *Health Options, Inc. v. Palmetto Pathology Services, P.A.*, 983 So. 2d 608 (Fla. 3d DCA 2008)

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