

# HOW TO GENERATE REASONABLE REIMBURSEMENT FOR THE TREATMENT WE RENDER OUR PATIENTS

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## Disclaimer

- ▶ This lecture contains a general discussion of means and methods of billing collections and legal principles applicable in California. This should not be taken as specific legal advice. Practice structure and operational issues have become legally complex due to significant amounts of governmental regulation. We urge each doctor to consult with a competent healthcare attorney on these and other issues affecting the practice of healthcare issues.



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## Disclosure

- ▶ Jonathan Nissanoff MD has a financial relationship with :
- ▶ E.C.U.R.E.
- ▶ YDM Management Inc.
- ▶ Orthopedic Specialists of Southern California
- ▶ Advanced Orthopedic Center



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## It Is Not in Your Billing Companys Financial Interest To Collect the Unpaid Balances of Your Money !!

They are a billing company- not a collection company.



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## Collections Costs for Your Biller

- ▶ First bill out
  - \$1 in staff cost to plug CPT codes in computer
  - 50 cents to mail out each bill
  - Time to input EOBs into billing software
- ▶ Appeal letter = \$5 in staff time
- ▶ Phone call, return calls, negotiations, etc. = \$45
- ▶ If you are paying 5% for billing, then any amount under \$1000 ( 5%=\$50) is going to be at their cost and will not generate them any income (IF THEY EVEN ARE ABLE TO COLLECT THE FUNDS!)



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## Money Left On the Table

- ▶ The insurance companies know this and therefore will reduce your bills to an amount that your biller or you will not want to pursue through collections



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## You CAN Take the Insurance Company to Court Even Though You DO NOT Have a Contract with Them!

- ▶ The DMHC and the California Supreme Court have made it clear that a court action remains an available recourse for providers seeking proper reimbursement for emergency care services rendered to a plan's enrollee
  - (See Bell v. Blue Cross of California (2005) 131 Cal.App.4th 211)

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## Next Step

- ▶ Why Litigation?
  - A law suit gets the claim into a decision maker's hands
  - Encourages the insurance carrier to settle
  - Leads to either settlement or judgment ruling
- ▶ Litigation Time Estimates
  - Small claims court <\$2500 approx 3-6 months
  - Limited jurisdiction court <\$25,000 approx 1 year
  - Unlimited jurisdiction >\$25000 2-3 years
  - Federal Court >\$100,000 2-5 years

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## Usual, Customary, and Reasonable Rates (UCR)

- ▶ Properly defined UCR rates MUST take into account the following:
  - 1. The providers training, qualification, and length of time in practice;
  - 2. The nature of the services provided;
  - 3. The fees usually charged by the provider;
  - 4. Prevailing provider rates in the general geographic area in which the services were rendered;
  - 5. Other aspects of the economics of the medical provider's practice that are relevant; and
  - 6. Any unusual circumstances in the case.
- ▶ (28 C.C.R. §1300.71 (a)(3)(B))

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### Going to Court to Recover Reasonable Fees is NOT in your best financial interest

- ▶ Costly - legal fees average \$350/hour
- ▶ Court filing fees = approx \$500
- ▶ Deposition fees= thousands of dollars
- ▶ Expert fees= thousands of dollars
- ▶ Court reporter fees= hundreds of dollars
- ▶ Jury fees= hundreds of dollars
- ▶ Collusion/anti trust issues when litigating with other providers as a group




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### Solution ...CONSOLIDATION ..

- ▶ ONE COMPANY LITIGATING
- ▶ Company purchases ALL physician, surgery center, hospital, and other health care provider bills for 50% of what eventually is collected
- ▶ NO risk to physician
- ▶ NO cost to physician
- ▶ All costs incurred by Company
- ▶ Company is able to do this by combining all accounts from hundreds if not thousands of providers and filing suit under one plaintiff (economies of scale)
- ▶ NO ANTI TRUST ISSUES.




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### Personal Injury Cases

- ▶ Car Accidents
- ▶ Slip and Fall
- ▶ Bike Accidents
- ▶ Sports Injuries




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## Insurance and Lawyers in PI Cases

- ▶ Most likely there is some sort of insurance
- ▶ Most likely there is a lawyer litigating the case against the liable party's insurance
- ▶ The liable party's insurance will most likely pay a settlement or judgment amount
- ▶ YOU, as a treating doctor, have a right to get paid for your services– but need to do so before money leaves the attorney's trust account!

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## Medicare Participants

- ▶ Medicare pays 80% of their fee schedule
- ▶ Participant = **100% of fee schedule** (80% from Medicare and 20% from Patient)
- ▶ Non-Participating = **115% of fee schedule** (80% from Medicare and 35% from Patient)
- ▶ Opt-Out= **UCR from patient** (but hospital and ER is 115% of fee schedule by statute **from Medicare**)

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## Discounts to Patients Are They Legal?

- ▶ Generally not legal unless you discount the carrier the same amount
- ▶ All charges must remain constant–write off balances for medicare, medicaid, and WC
- ▶ Exceptions
  - Prompt payment discount
  - Hardship discount
  - Bad debt – legal requirement to bill but NO legal requirement to collect

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## Billing Mistakes

- ▶ Here are just a few of the cases where billing related errors (professional courtesy, insurance only, out-of-network write-offs, and balance billing) ended in very-real legal nightmares:
- ▶ CA physician gets **5 days in jail and \$562,500 fine**
- ▶ Insurance carrier sues practice to repay collected revenue deemed balancing billing (**\$4.3 million**)
- ▶ Pulmonology practice pays **\$10K in fines and \$2.5 million to repay collected funds**



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## Complex issues

- ▶ It's no longer as simple as sending out an invoice and getting paid for your services, or providing free care to your employees. Unless you really understand how to correctly maneuver through the legal pitfalls of billing for your services, you could end up like the physicians above.



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## Coding Correctly in Special Circumstances

- ▶ Phone calls
- ▶ Discussions with other healthcare providers
- ▶ Coordination of care
- ▶ Following coagulation numbers for a patient on anticoagulants
- ▶ After-hours and out-of-office treatment
- ▶ Emergency care during office hours
- ▶ Handling specimens
- ▶ Tobacco cessation
- ▶ Reviewing electronic data
- ▶ Using modifiers



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### Telephone Calls (effective as of 1/1/2009)

- ▶ 99441 – Phone by Physician 5 to 10 minutes of medical discussion
- ▶ 99442 – Phone by Physician 11 to 20 minutes of medical discussion
- ▶ 99443 – Phone by Physician 21 to 31 minutes of medical discussion

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### Physician Conferences (Grand Rounds or Morbidity and Mortality)

- ▶ 99367 – Medical team conference with interdisciplinary team of healthcare professionals, patient and/or family not present, 30 minutes or more, participation by physician
- ▶ 99368 – Medical team conference with interdisciplinary team of healthcare professionals, patient and/or family not present 30 minutes or more, participation by non-physician qualified healthcare professional

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### Conferences with Other Healthcare Providers (effective as of 1/1/2009)

- ▶ 99444 – Online E&M by Physician of medical discussion
- ▶ 98969 – Online service by other Healthcare Provider
- ▶ 98966 – Healthcare Provider phone call 5 to 10 minutes of medical discussion
- ▶ 98967 – Healthcare Provider phone call 11 to 20 minutes of medical discussion
- ▶ 98968 – Healthcare Provider phone call 21 to 30 minutes of medical discussion

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## Anticoagulant Monitoring

- ▶ CPT code 99363 is to be used after the initial 90 days of outpatient warfarin therapy. The code is intended to reimburse the physician work involved in adjusting warfarin levels based on a review of a patient's international normalized ratio (INR) measurements
- ▶ CPT code 99364 is very similar, but is to be used for subsequent 90-day periods of management and only requires three INR measurements during these time periods

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## After-Hours and Out-of-Office Treatment

- ▶ 99056 – Services typically provided in the office, provided out of the office at request of patient, in addition to basic service
- ▶ 99053 – Services provided between 10:00 PM and 8:00 AM at 24-hour facility, in addition to basic service
- ▶ 99050 – Services provided in the office during regularly scheduled evening, weekend, or holiday office hours, in addition to basic service
- ▶ 99051 – Services provided in the office at times other than regularly scheduled office hours, or days when the office is normally closed (e.g. holidays, Saturday or Sunday), in addition to basic service

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## Emergency Care

- ▶ 99060 – Services provided on an emergency basis, out of the office, which disrupts other scheduled office services, in addition to basic service
- ▶ 99058 – Services provided on an emergency basis in the office, which disrupts other scheduled office services, in addition to basic service

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## Handling Specimens

- ▶ Code 36415 may be reported for collection of venous blood by venipuncture
- ▶ Code 36416 may be used for collection of capillary blood specimen (e.g., a finger or heel stick)
- ▶ You can report CPT code 99000, "Handling and/or conveyance of specimen for transfer from the physician's office to a laboratory," to represent the work and costs you incur preparing a specimen for transport (e.g., centrifuging, separating serum and labeling tubes)

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## Tobacco Cessation Codes

- ▶ 99406 and 99407
- ▶ These codes should be selected based on the amount of time devoted to the counseling
  - Use 99406 for 3 to 10 minutes
  - Use 99407 for more than 10 minutes.

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## More Special Codes for forms and lengthy discussions with patients

- ▶ 99080 - report generated and/or form filled out
- ▶ OMFS 99080= **\$37.98**
- ▶ 99354 - Prolonged physician service in the office or other outpatient setting requiring direct (face-to-face) patient contact beyond the usual service; **first hour** (To be reported along with CPT codes 90809, 90815, 99201-99215, 99241-99245, 99324-99337 and 99341-99350).
- ▶ OMFS Regulations 99354 **\$171.19**
- ▶ 99355 - Prolonged physician service in the office or other outpatient setting requiring direct (face-to-face) patient contact beyond the usual service; each **additional 30 minutes** (To be reported along with CPT code 99354).

OMFS FEE SCHEDULE 99355 **\$90.10**

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## Even More Special Codes

- ▶ 99356 – Prolonged physician service in the inpatient setting, requiring unit/floor time beyond the usual service; **first hour**
- ▶ Omfs= **\$197.84**
- ▶ 99357 – Prolonged physician service in the inpatient setting, requiring unit/floor time beyond the usual service; each **additional 30 minutes**.
- ▶ Omfs= **\$98.52**
- ▶ 99358 – Prolonged evaluation and management service before and/or after direct (face-to-face) patient care (e.g., review of extensive records and tests, communication with other professionals and/or the patient/family); **first hour**.
- ▶ Omfs= **\$36.34**
- ▶ 99359 – Prolonged evaluation and management service before and/or after direct (face-to-face) patient care (e.g., review of extensive records and tests, communication with other professionals and/or the patient/family); each **additional 30 minutes**.




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## Modifiers Etc.

- ▶ -93 – Interpreter needed
  - add 10% to bill
- ▶ 99070 – supplies
- ▶ NDC numbers for medication and injectibles
- ▶ 99071 – educational materials
- ▶ 99082 – escort of a patient
- ▶ 99090 – analysis of clinincal data stored in computers (e.g., EKG, blood work)




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## Closed Treatments

- ▶ Always bill closed treatment of fractures with global service data
- ▶ Better than the patient following up and colleting follow up payments
- ▶ You still collect copays per follow up visit
- ▶ If lost to follow up, you still get paid
- ▶ This is in addition to the decision making E&M code




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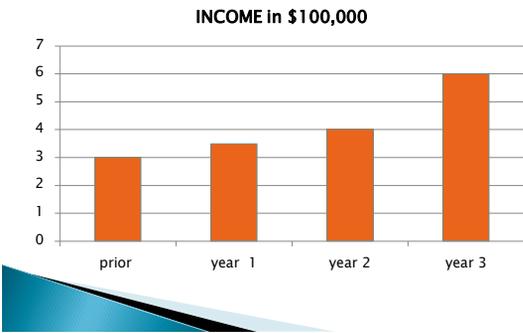
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### Estimated Collection Over 3 Years



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