From Challenge to Reimbursement – Successfully Collecting on Third Party Liability Accounts is No Accident

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The Challenges of Accident Accounts

• Specialized Training and Skills Development
• Labor Intensive Gathering of Information
• Complex Coordination of Benefits Efforts
• Complex Compliance Requirements
• Difficult Follow-up and Reimbursement Process
• Potentially a Long Reimbursement Horizon
The Potential Reward from Accident Accounts

- Increased Collections across all Payer Types, especially for Uninsured Patients
- Maximized Reimbursement from Accident Related Payers
- Compliance with Governmental Coordination Requirements
- Properly Coordinated Payers and Accounts
- Secured Interests in Liability Proceeds
- Fewer Refunds and Offsets
Keys to Turning Challenges into Reimbursement

• Understand the Texas Personal Injury System
• Follow a Comprehensive, Well-Defined Third Party Program
• Communicate the Reality of the Program to all Stakeholders
• Stay the Course!
UNDERSTANDING THE TEXAS PERSONAL INJURY LITIGATION SYSTEM
Goal of the Personal Injury System

- To obtain compensation by an injured person (the Patient) from the third party that negligently caused the accident, almost always through either First Party or Third Party insurance coverages
The Texas Personal Injury System

Types of Coverages

• First Party Insurance Coverages
  • Coverage paid for by the Patient/Injured Party
  • Includes:
    • Personal Injury Protection (PIP)
    • MedPay
    • Uninsured/Underinsured Coverage

• Third Party Coverages
  • Coverage Paid for by the Party that Caused the Accident
  • Includes:
    • Personal and Commercial Auto Policies
    • Homeowner’s Policies
    • Commercial Premises Policies
      • Typically a Commercial General Liability Policy
First Party Coverage

- Accident Related Coverage paid for by the Patient
- Usually Part of a Comprehensive Insurance Policy
- Auto Insurance and Homeowner’s Insurance
- PIP and MedPay
- First Come, First Served Policy
- Secured by Timely Filing an Assignment of Benefits and a Bill
- Usually a minimum of $2,500 up to $100,000
- Underinsured\Uninsured Coverage
- Coverage paid for by the Patient to protect against other motorists who either do not have coverage or have the minimum coverage

- A Hospital Lien does not apply to any of these First Party Coverages
Third Party Coverage

- Accident Coverage Paid for by the negligent Third Party
- Required for Motor Vehicles
- Commercial General Liability policies
- In most states, secured by a Hospital Lien
- Policy limits are usually:
  - Individual Policies = $30,000 and up
  - Commercial Policies - $1,000,000 and up
THE COMPREHENSIVE THIRD PARTY LIABILITY PROGRAM
The Six (6) Phases of a Successful TPL Program

- Referral
- Investigation
- Account Coordination
- Follow-up
- Resolution
- Litigation
THE REFERRAL PHASE
Goal of the Account Referral Phase

- To identify all accident accounts as soon as possible and generate the identified accident accounts into a comprehensive Third Party Liability Program
The Referral Phase

Best Practice is to Capture all Accident Accounts

• Apply a Multi-layered approach including:
  • Census Reviews
  • Occurrence Codes
  • External Cause Codes

• Goal is to Start with all Accident Accounts for Review and Tracking Purposes
Best Practice is Capture all Payers

- Account Capture should include all Payers, including:
  - Uninsured
  - Medicare
  - Medicaid
  - Commercial Payers
Best Practice is to Capture all Accident Types

- Motor Vehicle Accidents
- Auto-Pedestrian Accidents
- Slip and Falls
- Products Liability
- Any accident caused by the negligence of a third party

- Viable accidents DO NOT include:
  - Work Related Injuries (except Texas non-subscribers)
  - Self-Inflicted Injuries
  - Injuries at a Patient’s home
"Sorry, but throwing your back out while pushing the envelope is not considered a legitimate workplace injury."
THE INVESTIGATION PHASE
Goal of the Investigation Phase

- To find out everything possible about the patient, the accident and the other parties involved in the accident as soon as possible
Information is the Key

• Information is the Key to a Successful Third Party Liability Program
• To be Successful the following information is needed:
  • Patient Demographics
  • Accident Details
    • Location
    • Parties
    • Details of Occurrence
  • Accident Coverage Information for Patient and Liable Third Party
    • Extent of Coverages
    • Coverage Limits
  • Other Health Related Coverages for Patient
Best Practices to Obtain Information

• Patient Screening
• Bedside
• Contact Campaign
• Police Reports
• Additional Contacts with:
  • Attorneys
  • Adjustors
Goal of the Account Coordination Phase

- To use the information obtained in the Investigation Phase to build a plan on how to proceed on each account in a manner that will generate the most revenue as quickly as possible while maintain compliance with all relevant requirements.
Accident Accounts without Coverage (Uninsured)

- Uninsured Accounts have the Most Impact
- Coordinate the Account as follows:
  - Pursue any First Party Coverage Primary
  - Pursue any Third Party Coverage Secondary
  - Pursue the Uninsured Patient Tertiary
- Recommend that all three efforts are Parallel and that the Patient Collection efforts Continue During the Accident Coverage Reimbursement Process
Accident Accounts with Medicare

- Follow the Medicare Secondary Payer Act and Regulations
- Coordinate the Account as follows:
  - Pursue First Party Coverage Primary
  - Then Two Options if there is a Liability Opportunity:
    - Option 1:
      - Bill Medicare
      - Pursue only true Patient Portion through Hospital Lien
    - Option 2:
      - Do Not Bill Medicare
      - Pursue Total Charges through Hospital Lien
- If do not bill Medicare by 1 year deadline the right to recover from Medicare is lost, but can still collect total charges from Hospital Lien recovery
Accident Accounts with Traditional Medicaid

- Follow the Texas Third Party Recovery Act and Regulations
- Coordinate the Account as follows:
  - Pursue First Party Coverage Primary
  - Then Two Options if there is a Liability Opportunity:
    - Option 1:
      - Bill Medicaid
      - Stop all Other Efforts since Payment in Full
    - Option 2:
      - File an Informational Claim with Medicaid
      - Pursue Total Charges through Hospital Lien (18 Month Period)
- If do not bill convert the Information Claim to a Bill by 18 month deadline the right to recover from Medicaid is lost, but can still collect total charges from Hospital Lien recovery
- Managed Medicaid is Treated as a Commercial Payer for Coordination Purposes
Accident Accounts with a Commercial Payer

• For contracted Commercial Payers, coordinate the Account per the contract:
  • Pursue any First Party Coverage Primary
  • Pursue the Payer Secondary
  • Pursue any True Patient Responsibility after Contractual Adjustments through a Hospital Lien Tertiary

• For non-contracted Commercial Payers, coordinate the Account as follows:
  • Pursue any First Party Coverage Primary
  • Pursue the Payer Secondary ([See Civil Practices & Remedies Code § 146.002](#))
  • Pursue any remaining balance through a Hospital Lien
Governmental Payer Trends

- MLN Matters Number: MM8984, effective October 1, 2015
- Providing more clear guidance to MACs regarding payment pursuant to the MSP
- As of October 1, 2015, Medicare is not permitted to make payment for claims associated with any such injury unless there is documentation to show that the responsible party has terminated its responsibility or is exhausted
- If claims are made for services related to a liability incident, per CMS, MACs shall deny payment for claims with open liability claims if the ongoing responsibility for medicals indicator is present and the diagnosis codes match(ed) or match within the family of diagnosis code
- More likely for provider claims to be denied if the claims are related to injuries due to the negligence of a third party
- MLN Number MM8984 available [here](#).
Securing Payment from First Party Coverages

- First Party Coverages are secured by:
  - First Come, First Served Policies
  - Secure Payment by providing an AOB and a Bill to the Appropriate Coverage and Adjustor
Securing Payment from Third Party Coverages

- Third Party Coverages are secured by:
  - Filing a Hospital Lien under section 55 of the Texas Property Code
  - Hospital Lien has to be filed before money changes hands
  - Must be filed according to statute:
    - County Property Records
    - Required Notice

- Once properly filed serves as presumed notice to all parties that a Hospital Lien exists in favor of the Hospital
Recent Hospital Lien Challenges

• Coordination of Benefits Issues, including billing liability insurance primary to Medicare and/or Medicaid
• Pursuit of remaining balance after payment from non-contracted health insurance
• Definition and application of “reasonable and regular rate”
• Claims that the lien is fraudulent because the charges are not “reasonable and regular” or because the patient was admitted to the emergency room, rather than as an inpatient
THE FOLLOW-UP PHASE
The Follow-up Phase

Goals of the Follow-up Phase

• Once right to payment secured, to maintain an accurate status on each accident account through contact with the all relevant parties
The Follow-up Phase
Follow-up Targets

- Patient (until represented by an Attorney)
- Patient’s Attorney
- Third Party’s Attorney
- First Party Adjustor
- Third Party Adjustor (Bodily Injury)

- Best Practice is to verify status with multiple sources, if possible, to ensure have an accurate status of the account
Follow-up Methods

- Phone Calls
  - Group calls by Firm
- Letters
- Status Sheets (certain law firms)
THE RESOLUTION PHASE
The Best Outcome

- First Party and Third Party Recoveries can be the last true payer in full
- The Best Outcome is payment in full
- Resolution Time Frames
  - First Party = 30-90 days
  - Third Party = 180-265 days
The Resolution Phase
Handling Requests for Reductions

• Most accounts generate a request for Reduction
• The key is Information
• Require Patient’s Attorney to provide, in writing:
  • Total Settlement Amount
  • Attorney’s Fees (including any reduction)
  • Litigation Expenses
  • Other Medical Expenses
  • Other Coverages
  • Condition of Patient
    • Permanently Disabled due to Accident
      • Get Life Care Numbers
    • Injured Minor
  • Any other Relevant Financial Information
Making Good Decisions on Reduction Requests

- Decide on a Reduction based on the Reality of the Account, not what you want out of an account
- Need to Understand and take into account the impact of:
  - Policy Limits
  - Permanent Disability or Minor status
  - Other Coverages
Mediations

• Best Practice is to Make Full Use of Mediations
  • Most Personal Injury Cases end in Settlement
  • Most Settlements come out of Mediations

• Always attend a scheduled Mediation (at least by phone)

• This effort can lead to a more favorable resolutions in a shorter Time Frame
THE LITIGATION PHASE
Goal of the Litigation Phase

- To complete the accident account reimbursement process through litigation because either a party did not honor the Hospital’s secured interest or some other legal intervention is needed
The Litigation Phase
Paid Around Liens and AOBs

- Despite either a Hospital Lien or a Secured First Party AOB, sometimes the insurance adjustors and the attorneys involved in the case will not protect the Hospital’s Interest
  - This often requires litigation to force the payment of the funds to the Hospital
  - Suit is against the Insurance company
  - Goal is to make the Hospital whole as if the Hospital Lien or AOB was honored
Interventions

• For high dollar accident accounts with high policy limits, a Hospital may want more protection that just having an outstanding Hospital Lien
• The Hospital can intervene in the Personal Injury Case and become a party to the litigation
• Allows the Hospital to:
  • Receive notice of all activity in the case
  • Attend all hearings, depositions and trial
  • Prove-up Hospital Lien amounts independently of other parties
Interpleaders

- Often times there are more claims on a settlement than there is money and what often occurs is called an Interpleader:
- The Plaintiff’s or Defendant’s attorney will deposit the settlement in the registry of the Court and the Court will:
  - Require all parties making a claim to prove-up the amount and validity of that claim
  - If there is truly not enough settlement, the Court will then divide the settlement amount among the claimants (usually pro rata by claim amount)
Summary

- Information is the Key
- Comprehensively Review and Work all Accident Accounts
- Spend the time to Properly Coordinate all Accounts
- Utilize Litigation, if Necessary
- Stay the Course – Don’t give up over the time Necessary to obtain Reimbursement
Alegis, a MedData Company

• Douglas Turek
  • Senior Vice President of Operations
  • Telephone: 832-489-4939
  • Email: dturek@alegisrevenue.com

• Derek Ford
  • Vice President of TPL Operations
  • Telephone: 832-330-8752
  • Email: dford@alegisrevenue.com
Endorsements for Alegis’ TPL Program

• Texas Hospital Association
• California Hospital Association
• Indiana Hospital Association
Disclaimer

• This presentation is intended for informational and educational purposes only. Nothing in this presentation is intended as legal advice. If you or your employer have a specific legal question or needs legal advice, please contact an attorney.

• If you have specific legal questions relating to Hospital Liens and accident related collections, you can contact:
  Douglas Turek
  The Turek Law Firm, PC
  Office: (281) 296-6920
  Mobile: (832) 489-4939
  Email: dturek@turekdevore.com