Financial Compliance: Risky Business

1

Anti-Trust Statement

Please be advised that any discussion which leads to an agreement as to price among competitors is a “per se” violation of the Sherman Act. Providers gathered in any setting must always exercise caution to avoid discussions or exchanges of information with their competitors on prices or pricing at meetings since such discussions or information exchanges may give rise to inferences of agreement.

Any agreement not to compete among business firms is also a “per se” violation of the antitrust laws. Thus, no discussion of division of territories or customers, or limitation on nature of business, should be held at any function. Joint refusals to deal (boycotts), including discussions of blacklists, are likewise unlawful “per se,” and no discussions related to these practices are permitted.

Discussion of fees or examples used are for instructional purposes only should not be considered as a recommendation for any provider or group of providers.

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5 Most Dangerous Things

01 Dual Fee Schedule

02 Improper Time of Service Discounts

03 Inducement Violations

04 Anti-kickback Statutes

05 False Claims Act

4

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5 Most Dangerous Things

01

Dual Fee Schedule

Charging more to insurance than you do to your cash patients.

Misstates charges to carriers.

Potential False Claims Act Violation.

5

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5 Most Dangerous Things

02

Improper Time of Service Discounts

A discount offered based on bookkeeping savings.

OIG states that 5%-15% is considered reasonable.

Often a cover for a "dual fee schedule".

6

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5 Most Dangerous Things

OIG permits incentives up to $15 per item, no more than $75 on an annual basis.

CMPs of up to $10,000 per wrongful act.

03

Inducement Violations

Examples:

Offering free or discounted exam, x-ray, or therapy

7

7

5 Most Dangerous Things

A federal law that prohibits paying or receiving remuneration in order to induce the referral of government paid **healthcare** business.

A criminal statute. Includes fines up to $25,000 per violation, up to 5 years in prison, or both.

04

Anti-kickback Statutes

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8

5 Most Dangerous Things

Federal penalties can total three times of amount of the claim, plus fines of **$5,500**-$11,000 per claim.

State laws include possible imprisonment, in addition to fines of **$5,000**-$10,000 per claim.

05

False Claims Act

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"The only thing that remains constant is change." Heraclitus

Conflicting regulations and opinions have created **confusion** and **frustration**.

- CMS/Carrier advice vs. OIG
- State Boards vs. Federal Regulations
- Provider Agreements vs. HITECH Privacy Regulations

10

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Payers Care

- The National Heath Care Anti-Fraud Association estimates conservatively that health care fraud costs the nation about **$68 billion** annually — about 3 percent of the nation's **$2.26 trillion** in health care spending. Other estimates range as high as 10 percent of annual health care expenditure, or **$230 billion**.

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The Office of Inspector General Cares

Year	Area of Concern
2005	67% of claims deemed to be fraudulent.
2008	The OIG proudly proclaimed that they recouped $17 for every $1 invested in RAC and Probe Audits.
2012 - 2014	Chiropractic included in OIG workplan. $350 million added to health care fraud investigations. Recouped $7.10 per $1 invested.
2016	OIG estimates that 82% of Medicare claims were improperly paid.
2017	Recouped $4.10 per $1.00 invested.
2018	Recouped $2.92 per $1.00 invested
2019	Recouped $6.41 per $1.00 invested.

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The Office of Inspector General Cares

U.S. Department of Justice vs. Dr. Brown

Dr. Brown from Iowa has agreed to pay $79,919 to resolve allegations Brown **violated the False Claims Act by improperly billing Medicare and Medicaid for chiropractic adjustments after providing free electrical stimulation to beneficiaries to influence those beneficiaries to receive chiropractic adjustments from Brown.** The government alleged that this conduct violated the Anti-kickback statute and, in turn, the False Claims Act. The claims at issue were submitted between January 1, 2012, and September 30, 2016.

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State Boards Care

DISCIPLINARY ACTION UPDATE

Agreed Settlement of Disciplinary Action was entered into by Dr. X and the CPBN for violations of unprofessional conduct (NRS634.018(10).

The charges included failure to collect proper co-payment amounts, waiving deductibles and, by office policy,

- having a dual fee schedule, i.e., cash vs. insurance (NAC 634.430)
- probation for two years, pay $10,000 in fines and reimburse the Board for its costs not to exceed $5,000.

Federation of Chiropractic Licensing Boards

15

15

The Courts Care

***Kennedy v. CIGNA*, 924 F.2d 698**

Plan sued provider after discovering he was waiving patient responsibility obligations.

Plan argued provision in member's policy applied, which provided no payment would be made for charges which member was not legally obligated to pay.

Court agreed with plan. If provider wanted to receive payment under plan, he must collect co-payments.

***NOTICE to out of Network Docs.**

***Feiler v. New Jersey Dental Assn.*, 467 A.2d 276 (N.J. Super Ct.)**

Suit by state dental association against dentist for fraudulent billing practices.

Court found dentist "**lied**" to payors when he submitted charge of $100 and only intended to collect $80 from the payor and waive patient responsibility.

Court ordered dentist to disclose waiver practice to all payors so they could make correct payments based on actual charges.

Cases on waiver.

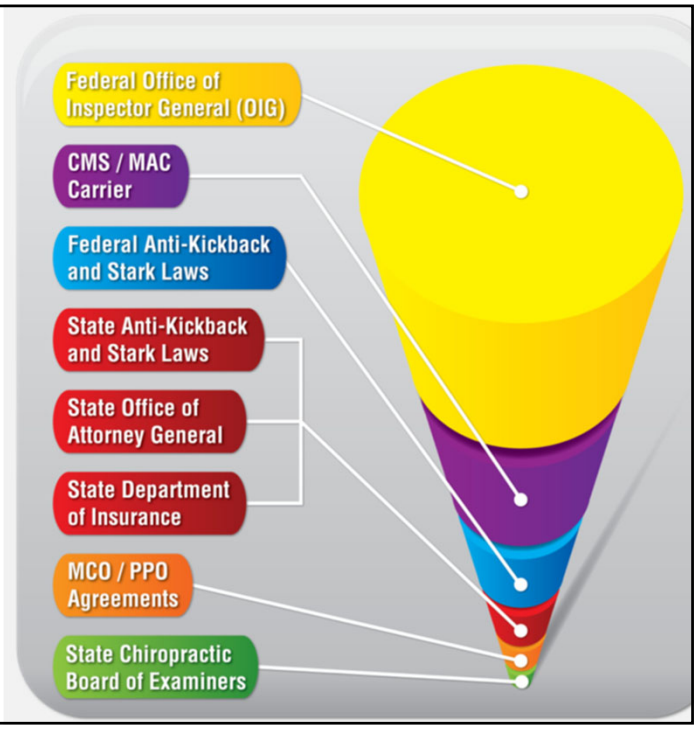
16

16

Whose Rules Should We Follow?

Notice

State law does **NOT** supercede federal rules and regulations against gifts and inducements and charging less than fair market value.



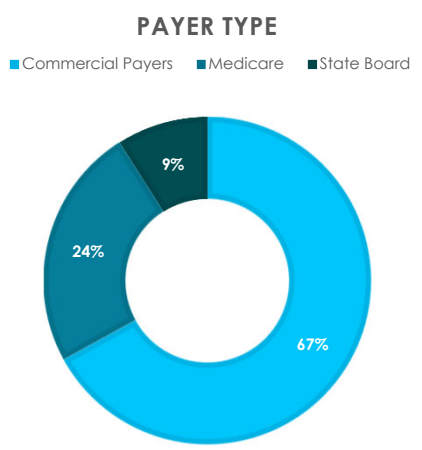
17

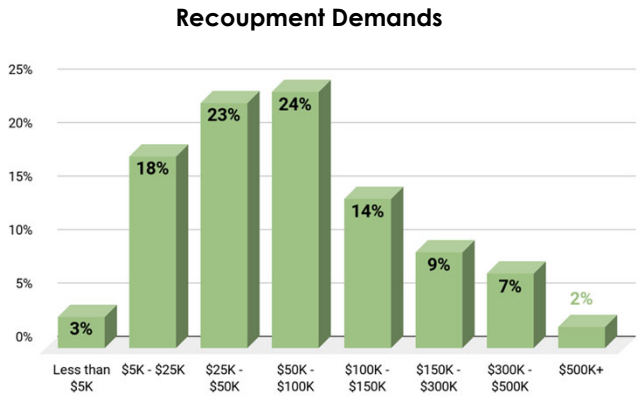
Audits are on the Rise

Are You Prepared?

18

2012 – 2017 Audits





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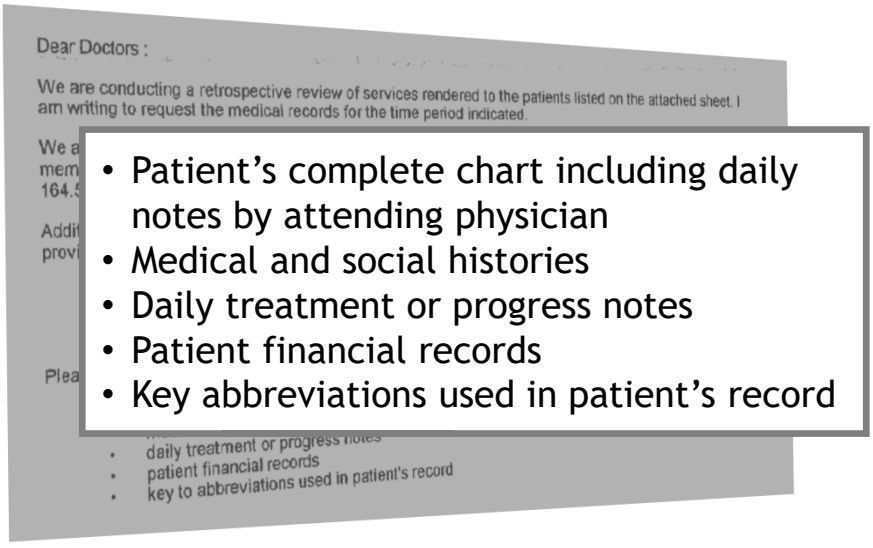
Inquiring Minds Want to Know!



- Patient's complete chart including daily notes by attending physician
- Medical and social histories
- Daily treatment or progress notes
- Patient financial records
- Key abbreviations used in patient's record

20

Inquiring Minds Want to Know!

5.) Do you offer your patients any discounts or special offers? If yes, how are these discounts / special offers reflected on the claims submitted for reimbursement?

YES to Question 5
= False Claims Act $25,000
= Inducement $10,000
= AKBS/Referrals $25,000

$85,000

6.) Do you currently accept insurance payments as payment in full: i.e., do you waive the co-payment, coinsurance and/or applicable deductible for your patients?

Yes to Question 6 $25,000
= Violation of Provider Agreement
= False Claims Act for misstating charges

21

Rock Solid Policy

How You Respond Determines What They Do Next

The only time we offer a discount is when it is required by mandate, or by contractual agreement, or a documented hardship.

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Dr. B. J. Palmer Chiropractic Clinic

NOTICE

In an effort to maintain compliance with various state and federal regulations, managed care and preferred provider agreements, as well as billing and coding guidelines, we have adopted the following financial policies:

Our clinic has established a single fee schedule that applies to all patients for each service provided.

You may be entitled to a network or contractual discount under the following circumstances:

- If we are a participating provider in your health plan.
- If you are covered by a State or Federal program with a mandated fee schedule.
- If you are a member of a Discount Medical Plan Organization we may join. Patients who are uninsured, or underinsured (limited benefits for chiropractic care), may join in our office and will be entitled to network discounts similar to our insured patients. Membership is $49.00 a year and covers you and your dependents. Ask our staff for more information.
- If you are eligible & choose a payment plan that allows for "prompt payment" discounts.
- Patients who meet state and or federal poverty guidelines or other special circumstances outlined in our "Hardship Policy" may be offered a discount for a period of time as determined by the clinic. Verification will be required.

As part of our compliance plan, as of _____ our office will be unable to extend any type of discounts other than those listed above.

Acknowledged By: _____ Date: _____

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23

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25

One Fee For Each Service

Fee is NOT based on payer type or source of payment!

PI visit	$100
WC visit	$100
Insurance visit	$100
Cash visit	$100

Discounts based on contracts or agreements.

26

How Did You Determine Your Fees?

- Flip a coin?
- Ask your buddy?
- Price fixing?
- Consultant?
- www.fairhealthconsumer.org

STOP LEAVING REVENUE ON THE TABLE!

27

When Can Fees Vary?

- Provider status is exchanged for negotiated fees
- Your "**fee system**" may reflect many different "fees allowed" within your actual fee system

98940 CMT 1-2 Areas	
Blue Cross	41.00
Aetna	32.00
Cigna	24.00

28

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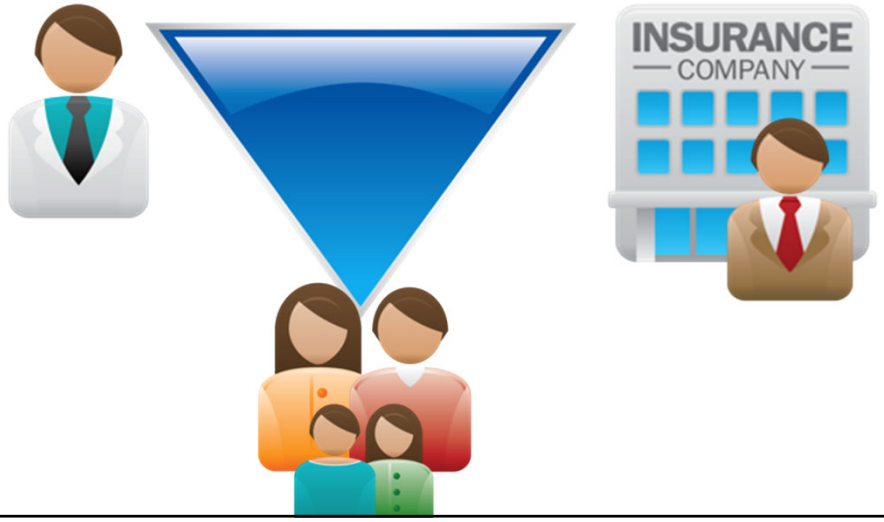
You Are Likely Already Discounting

When a patient that has insurance enters your office for care, they are bringing another "person" into the relationship.



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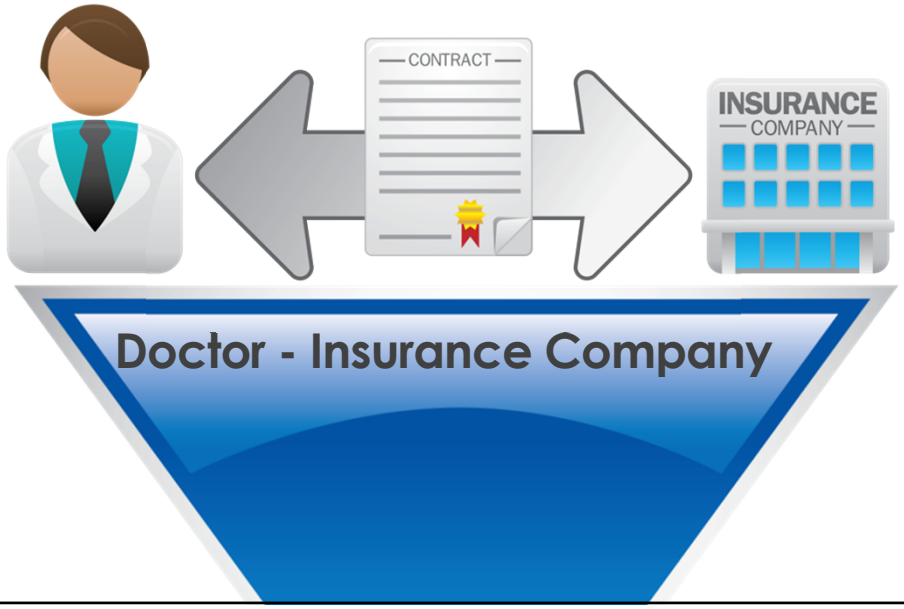
You Are Likely Already Discounting



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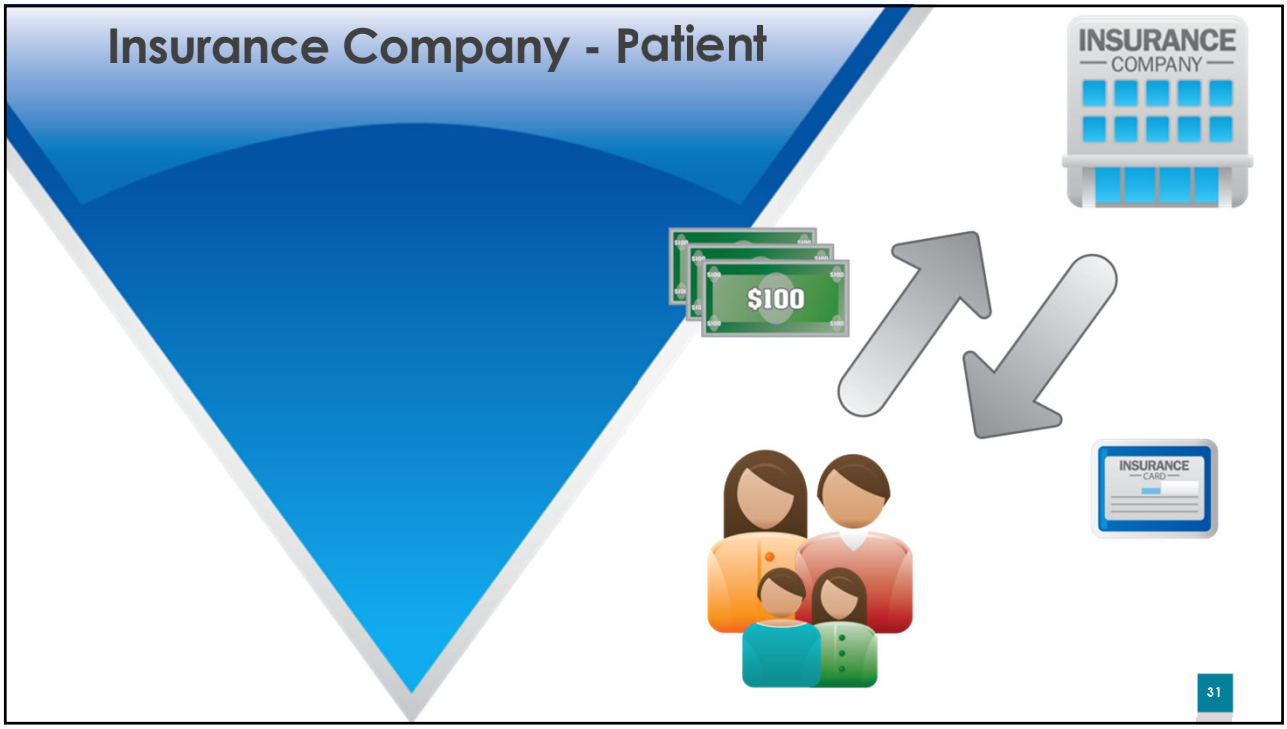
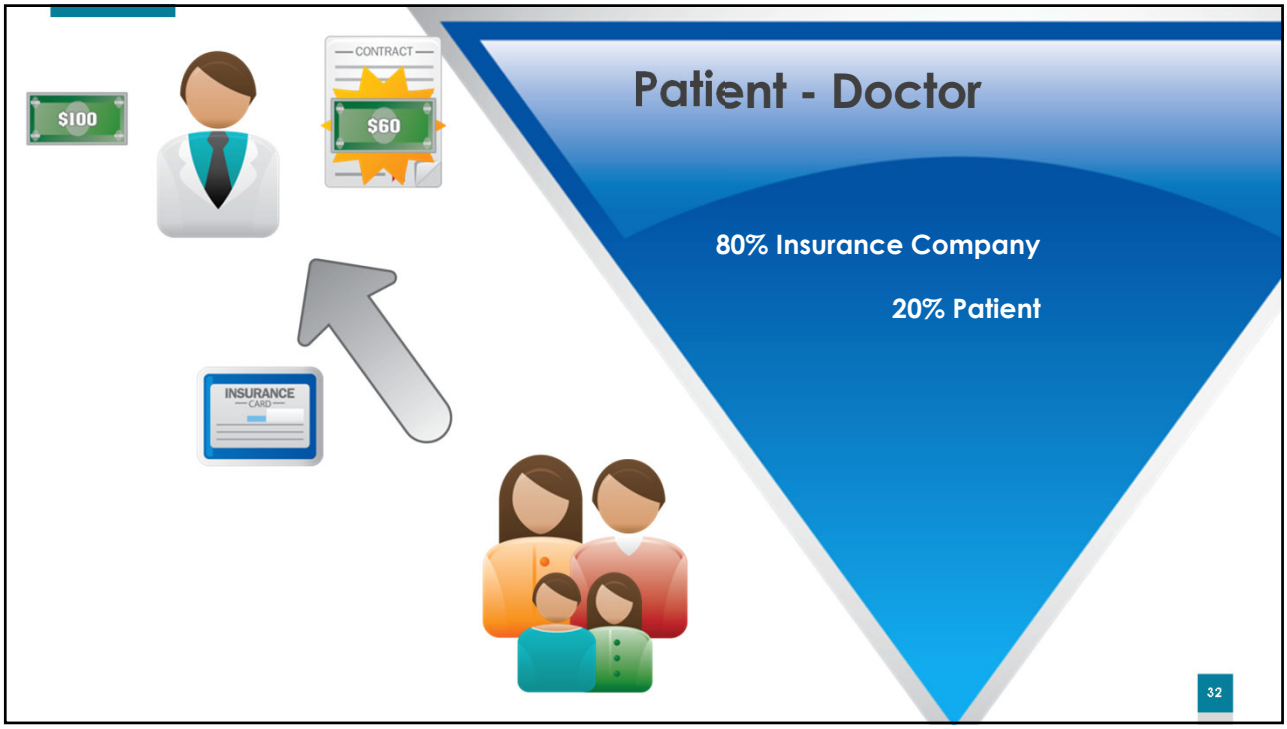
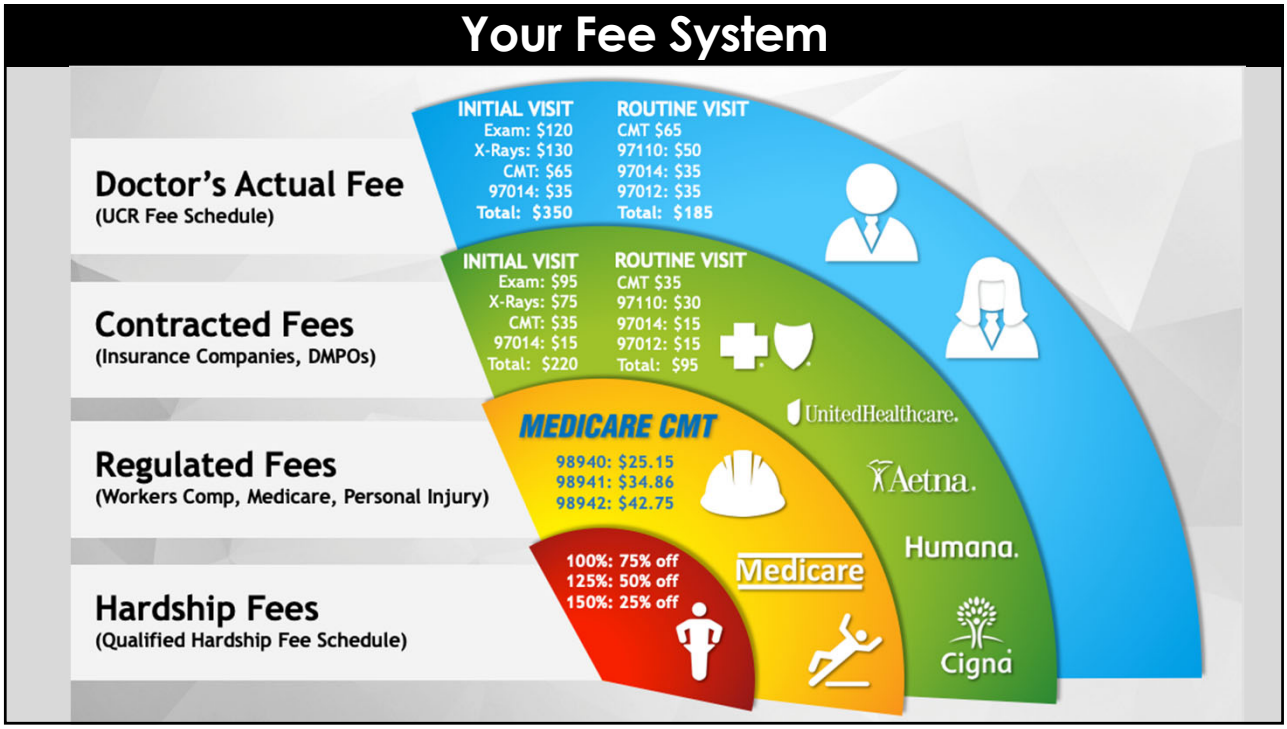

Insurance Company - Patient
INSURANCE
COMPANY
$100
INSURANCE
CARD
31

31


$100
CONTRACT
$60
INSURANCE
CARD
Patient - Doctor
80% Insurance Company
20% Patient
32

32


Your Fee System
Doctor's Actual Fee
(UCR Fee Schedule)
Contracted Fees
(Insurance Companies, DMPOs)
Regulated Fees
(Workers Comp, Medicare, Personal Injury)
Hardship Fees
(Qualified Hardship Fee Schedule)
INITIAL VISIT
Exam: $120
X-Rays: $130
CMT: $65
97014: $35
Total: $350
ROUTINE VISIT
CMT $65
97110: $50
97014: $35
97012: $35
Total: $185
INITIAL VISIT
Exam: $95
X-Rays: $75
CMT: $35
97014: $15
Total: $220
ROUTINE VISIT
CMT $35
97110: $30
97014: $15
97012: $15
Total: $95
MEDICARE CMT
98940: $25.15
98941: $34.86
98942: $42.75
100%: 75% off
125%: 50% off
150%: 25% off
UnitedHealthcare.
Aetna.
Humana.
Medicare
Cigna

33


Do my financial policy and discounts offered meet ALL layers of regulations?
General (OIG)
CMS / MAC
Carrier
Stark Laws
34

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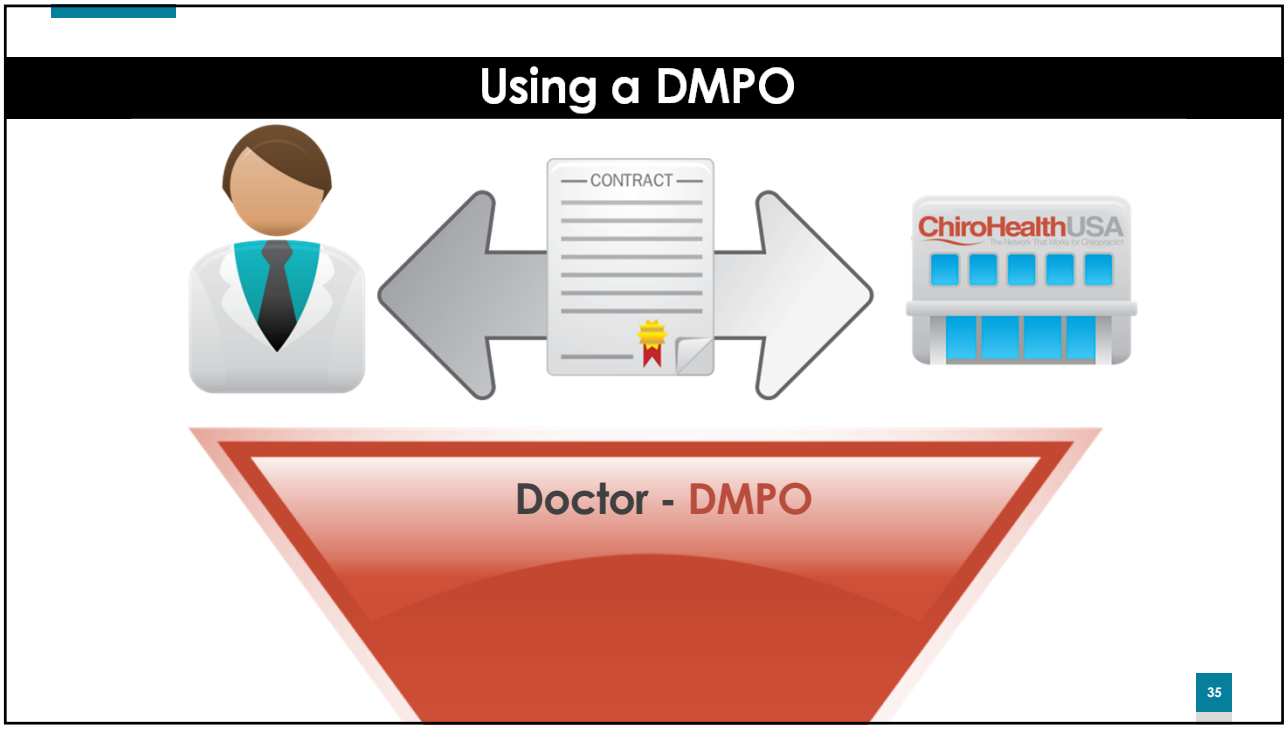
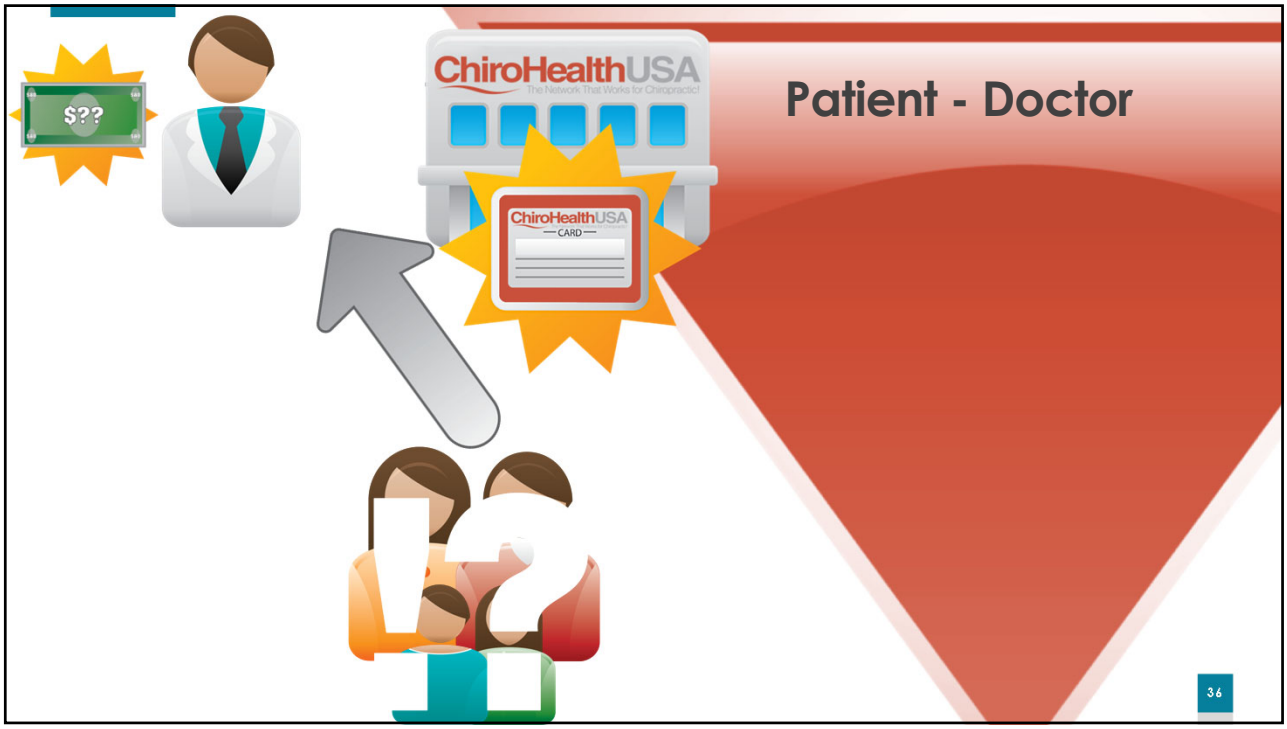

Using a DMPO
CONTRACT
ChiroHealthUSA
Doctor - DMPO
35

35


$??
ChiroHealthUSA
ChiroHealthUSA
CARD
Patient - Doctor
36

36


DMPO - Patient
ChiroHealthUSA
The Network That Works for Chiropractic!
$49
ChiroHealthUSA
CARD
37

37


CONTRACT
$??
38

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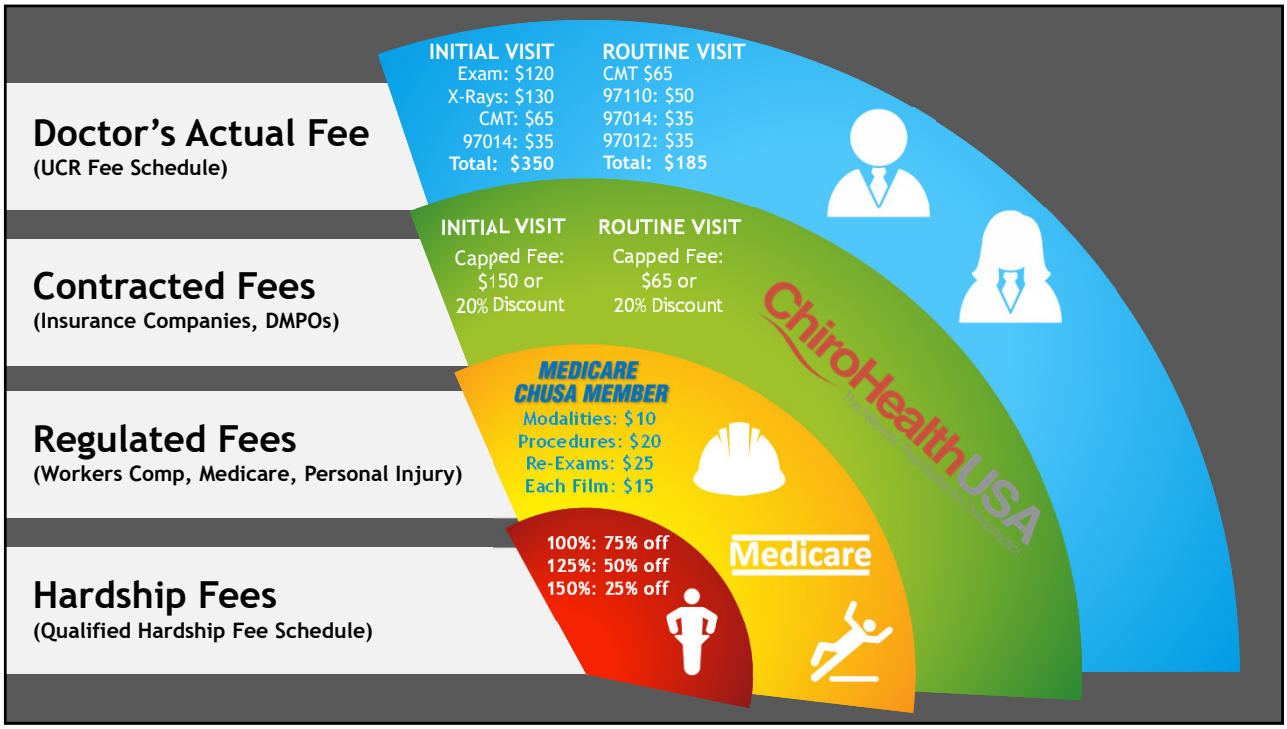
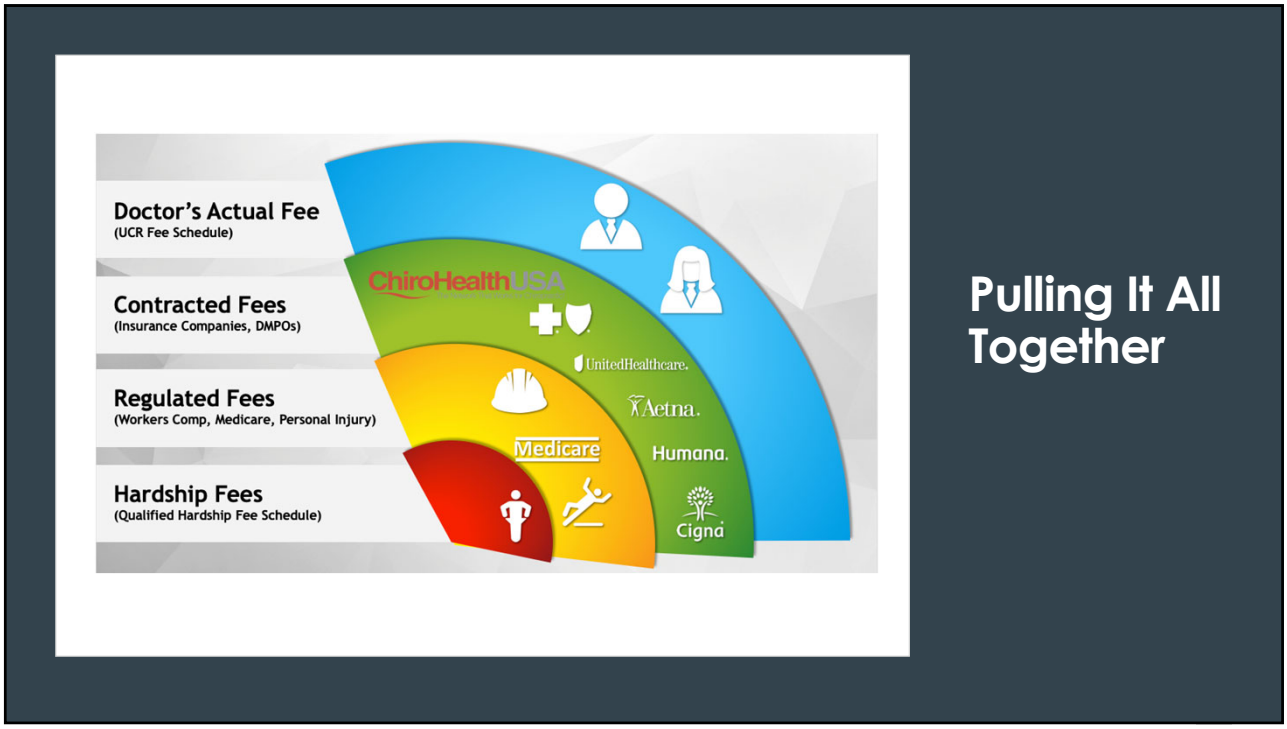

Doctor's Actual Fee
(UCR Fee Schedule)
INITIAL VISIT
Exam: $120
X-Rays: $130
CMT: $65
97014: $35
Total: $350
ROUTINE VISIT
CMT $65
97110: $50
97014: $35
97012: $35
Total: $185
Contracted Fees
(Insurance Companies, DMPOs)
INITIAL VISIT
Capped Fee:
$150 or
20% Discount
ROUTINE VISIT
Capped Fee:
$65 or
20% Discount
ChiroHealthUSA
Regulated Fees
(Workers Comp, Medicare, Personal Injury)
MEDICARE
CHUSA MEMBER
Modalities: $10
Procedures: $20
Re-Exams: $25
Each Film: $15
Hardship Fees
(Qualified Hardship Fee Schedule)
100%: 75% off
125%: 50% off
150%: 25% off
Medicare

39


Doctor's Actual Fee
(UCR Fee Schedule)
Contracted Fees
(Insurance Companies, DMPOs)
Regulated Fees
(Workers Comp, Medicare, Personal Injury)
Hardship Fees
(Qualified Hardship Fee Schedule)
ChiroHealthUSA
UnitedHealthcare
Aetna
Humana
Cigna
Medicare
Pulling It All Together

40

Common Place… Does Not Mean Legal or Compliant

41

Benefits of a DMPO

Even if your state says you can discount, you must be mindful of federal regulations on inducements, fair market value, and provider agreements.

Even if your state says you can discount, you can't discount out the level you probably are.

If you join a DMPO, none of this matters. The DMPO becomes another "allowed fee" within your fee system.

42

42

Benefits of a DMPO

Unlike insurance, we do not dictate your fee schedule.

There is NO cost to the Doctor.

You stay in control with a 30-day opt-out clause. No chance of "silent PPO activity."

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What we learned today…

The potential risks involved with offering discounts the wrong way.

→

The 100% legal way to offer discounts and why many of the profession's top consultants recommend using a Discount Medical Plan Organization (DMPO).

→

Your risk your license, your livelihood, and cannot practice with peace of mind.

44

44

Get Paid More Using a DMPO…

1. Set your fees at UCR vs. what you think your patient can afford.
2. Covert Shopper calls into New Patients
3. Transition patients from insurance to private pay
4. Out of Network does not mean out of luck.
5. More families with LEGAL family plan.
6. Handle high deductibles and co-pays with ease.

45

THANK YOU

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chirohealthusa.com

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