

COMPLIANCE PROCESS IN BLUE CROSS BLUE SHIELD SETTLEMENTS IN EFFECT: MAKE SURE YOU ARE BEING PAID CORRECTLY

The class action lawsuits brought by several state and county medical societies and physicians against the for-profit health insurers resulted in settlements which required the health insurers to significantly change the way they conduct business. The Physicians Advocacy Institute (PAI) is charged with enforcing the settlements on behalf of physicians. As of April 21, 2009, all the provisions in the Blue Cross Blue Shield Settlement Agreement have taken effect. This means that settling Blue Cross Blue Shield plans:

- May not seek overpayment recovery beyond 18 months
- Must use a clinically based definition of medical necessity
- Must adhere to most CPT© coding rules including payment for E&M codes appended with a 25 modifier and payment for add-on codes
- Must provide 90 days advance notice of material adverse change
- May not require physicians to participate in all products
- Must disclose their methodology for determining UCR amounts

If you believe a Blue Cross Blue Shield company (or any of the other settling insurers) has violated a provision of the settlement agreement, you should file a compliance dispute by completing the simple two page form available on www.hmosettlements.com. There is absolutely no cost to physicians to file disputes.

Physicians have used the compliance dispute process in other settlements to collect millions of dollars. For example, physicians collected over \$12,000,000 for previously denied CAD mammography and myocardial perfusion add-on codes. Physicians have also been saved from repaying millions of dollars in alleged overpayments. For example, one Florida practice saved \$1.9 million when the insurer agreed to accept \$33,000 after originally seeking to recover over \$2,000,000.

Other practices have saved hundreds of thousands of dollars. Many payments and savings have not reached this magnitude but have still been important to the individual practices involved. For example, one Oklahoma practice received payment of over \$9000 for previously denied modifier 59 claims. And, a New Jersey practice saved over \$13,000 when the insurer agreed to cease all overpayment recovery efforts.

Physicians have also successfully used the compliance process to enforce other rights in the settlement agreements, including their right to have accurate EOB's sent to patients insured by plans in which they don't participate and their right not to participate in HMO products.

In addition to the Blue Cross Blue Shield Settlement Agreement, settlements with Anthem/WellPoint, HealthNet and Humana remain in effect. For more information, please go to www.hmosettlements.com, www.ama-assn.org/go/settlements or contact the compliance dispute facilitators, Deborah Winegard at dwinegard@npmlaw.com for Blue Cross Blue Shield and Humana disputes or Cameron Staples at cstaples@npmlaw.com for Anthem/WellPoint and HealthNet disputes.