

ADVISORY NO. 350
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TOPIC: NEW DECISION RE: STOP LOSS

Our firm just won a very significant case before the State Office of Administrative Hearings. There is a wide variability in hospital billings, and in some instances, hospitals average charges well in excess of \$100,000 for routine back surgery cases. It appears that the higher billings have nothing to do with the quality or cost to the hospital of the services provided. The effect of the extraordinary charges is to increase hospital bills well in excess of the \$40,000 stop loss threshold, thus triggering an argument that carriers must reimburse the services at 75% of billed charges.

The State Office of Administrative Hearings has repudiated this methodology. Stop loss is only available in the event the hospital establishes that the service provided was “unusually costly” and “unusually extensive.” Rule 134.400(c)(6). If it is a routine hospitalization, it does not automatically qualify for stop loss, even if the total audited charges exceed \$40,000. Rather the carrier must consider these on a case by case basis. We recommend that if the audited charges plus implantables billed at cost plus ten per cent exceed \$40,000, within 14 days of receipt of the bill, request documentation from the hospital as to the services deemed by the hospital to be “unusually costly” and “unusually extensive.” If this documentation is not provided in a manner that satisfies your review of this standard, apply the per diem.

This is an extremely important case. It should be communicated to all bill repricing vendors and should be applied to all pending reviews of hospital bills.

This opinion is well reasoned and the methodology should be adopted by all carriers. It is the latest reported decision from the State Office of Administrative Hearings on this point, and it is a thoroughly logical application of the statutory standards, one of which is to achieve “effective medical cost control.”

Not all hospitals will accept this methodology. Vista Medical Center in Houston currently has a suit pending in which they are contending that they are entitled to a full stop loss calculation. One carrier has filed a separate Declaratory Judgment Action in Travis County insisting that these issues must be resolved by TWCC and/or SOAH, or in the alternative, that the court declare an interpretation of this rule consistent with this reported SOAH decision.

The case may be cited as Docket No. 453-03-0910.M4. A redacted copy of this decision is available upon request to Patsy Shelton at pgs@fol.com.

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