Aetna, AMA Lock Horns Over Medicare Payment

BY JANE ANDERSON
Contributing Writer

Aetna Inc. has announced that it is working with the American Medical Association and state medical societies to resolve issues involving nonparticipating physicians after the AMA complained that the insurer was paying those physicians just 125% of Medicare rates and then telling patients they didn't need to pay the rest.

In a letter to Aetna, Dr. Michael Maves, AMA's chief executive officer and senior vice president, noted that Aetna's policy—which was implemented last June—fails to take into account different practice costs that are reflected by physicians' billed charges.

Aetna 'is trying to force physicians back into the fold. … What we're looking at, in my opinion, is restraint of trade. They are trying to ratchet down physicians' fees.'

"It is simply arbitrary and capricious for Aetna to deem 125% of Medicare to be a fair payment across the board," Dr. Maves wrote in his letter to Dr. Troyen Brennan, Aetna's chief medical officer.

Dr. Maves also said in the letter that physicians nationwide have been reporting that they received Aetna Explanation of Benefits (EOB) forms stating that the patient has no obligation to pay the nonparticipating physician the difference between the physician's charge and the amount that Aetna has paid.

This practice, Dr. Maves said, potentially violates the 2003 settlement agreement with Aetna in Multidistrict Litigation 1334, the large class action lawsuit in which physicians sued large managed care companies, including Aetna, over business practices.

However, Dr. Brennan said in an interview that the settlement in that case "clearly differentiates between HMO-based plans and traditional plans." The settlement requires Aetna to tell members in traditional plans that they can be balance-billed by nonparticipating physicians, but it treats HMO plans differently, he said.

HMO members receive an EOB stating that Aetna does not contract with a nonparticipating provider, and that the provider might not accept Aetna's payment as payment in full for services, Dr. Brennan said.

"In the notice, we inform the member that we 'seek to ensure that they do not pay this provider any amount above any applicable copayment, coinsurance, or deductible at the in-network (referred) benefit level,' and if they receive a bill for the difference, they should send the bill to us," he said.

Aetna believes that it has complied with the 2003 settlement agreement "in all respects," Dr. Brennan said, adding that the company is in discussions with the AMA and state medical societies regarding the issues involved. However, "no substantive discussions have occurred as of yet with the AMA," said AMA spokesman Robert Mills.

Meanwhile, nonparticipating physicians are being placed in an awkward situation, said Dr. Alan Schorr, a Langhorne, Pa.–based endocrinologist who does not participate with Aetna. Some of his patients have received the Aetna EOBs.

"This puts the patient and physician into adversarial roles," said Dr. Schorr, who added that, although Aetna might believe that 125% of Medicare represents fair reimbursement, "the patient has to have some sense of responsibility."

But the EOBs from Aetna state that the patient has no responsibility to pay the difference between 125% of Medicare rates and the actual charges, Dr. Schorr said in an interview, and patients therefore don't want to pay the difference.

"We've had comments made to our office manager along the lines of 'Just write off the difference—you make enough anyway,' " he said.

Aetna "is trying to force physicians back into the [network] fold," Dr. Schorr said, adding that he had complained to the AMA and to the Pennsylvania Medical Society about Aetna's practice.

"What we're looking at, in my opinion, is restraint of trade. They're trying to ratchet down physicians' fees," Dr. Schorr said. ■