

Doctors' Association Sues Insurers for Health Care Price-Fixing

By David Rosenfeld, Miller-McCune Magazine
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The mainstream media dog-piled yesterday onto a story about the most recent lawsuit filed by the American Medical Association and other medical societies that accuses another insurance company — this time WellPoint, the nation's largest — of price-fixing.

The suit involves the use of a controversial software program that determined how much doctors should be paid for out-of-network services. It accuses WellPoint of using the program created by Ingenix, a subsidiary of UnitedHealth Group, to artificially lower payments to doctors and therefore overcharge patients for millions of dollars in unpaid claims.

The Ingenix program collected physician charge data for out-of-network services and allegedly lowered the "usual and customary" rate insurers were obligated to pay.

The lawsuit follows a series of similar suits against UnitedHealth, Cigna and Aetna. UnitedHealth settled with the AMA and others for \$350 million in January. In a separate suit brought by New York Attorney General Andrew Cuomo, UnitedHealth agreed to pay \$50 million toward a new database run by a nonprofit group. Aetna agreed to pay \$20 million.

Here at Miller-McCune.com, we've been following this story about so-called "denial engines" since last year. Last month we pointed out the larger problem that Ingenix and a host of software programs like it represent: An enormous headache for doctors.

A virtual arms race over software billing technology has taken considerable time and money away from doctors nationwide. Last year, the AMA commissioned its own researchers, who estimated the problem diverted 14 percent of physician resources and cost the health care system \$210 billion annually.

Robert Zirkelbach, spokesman for America's Health Insurance Plans, said he hopes the lawsuits at least shine a spotlight on the whole issue of out-of-network services. Insurers often cover a lower percentage of the overall costs, but doctors also charge considerably more.

"When you look at the negotiated rate that most physicians receive, the rate charged by out-of-network providers is drastically higher," Zirkelbach said. "Some physicians are billing multiple times Medicare rates for out-of-network services. There really hasn't been much of a discussion about what's an appropriate charge for out-of-network services."

A similar discrepancy in health care spending under Medicare is one the Obama

administration has signaled it might be willing to tackle, according to Peter Orzsag, director of the Office of Management and Budget.

"[The] last six months of life ... costs you and me today \$25,000 for each Medicare beneficiary at the Mayo Clinic," Orzsag recently told *PBS Frontline*. "Medicare beneficiaries, last six months of life at UCLA Medical, \$50,000 a year. These are two leading medical centers; they both deliver the best medical care in the world. One of them costs twice as much as the other, and I can tell you that we have no idea what we're getting in exchange for the extra \$25,000 a year at UCLA Medical, because the quality indicators, if anything, are all higher at the Mayo Clinic."

David Rosenfeld is a freelance journalist based in Portland, Oregon with 10 years of experience writing for newspapers. He writes primarily about health care, conservation and the changing world around us.

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