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Missed Deadline: (Almost) A Million Dollar Mistake

A client recently came to us with a conditional lien demand from Centers for Medicare & Medicaid Services (“CMS”) asserting charges in excess of one million dollars. The demand was mistakenly thought by the insurer to relate to a prior conditional lien demand associated with the same injured worker that was already under appeal, and the mix up was only discovered after the 120-day deadline to dispute the charges had passed.

In this demand, the largest cost was a six month hospital stay. Although the reported/accepted injury codes were listed by the hospital, there were numerous other non-industrial related codes listed as well, including a facility fee charge corresponding to the use of a ventilator. After some investigation, it became clear that the hospitalization related to treatment of non-industrial related COVID.

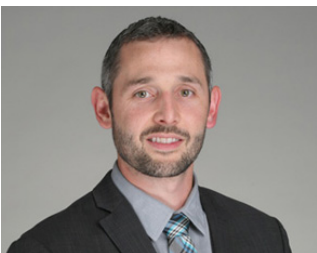
Despite the fact that the deadline to contest the charges had passed, we submitted a dispute to CMS seeking to have any non-industrial related treatment charges removed. As we anticipated, CMS dismissed this dispute for not being timely filed. However, this allowed us to appeal that determination, even if subsequent appeals were limited to demonstrating good cause for our late filing.

We also filed a separate request with CMS seeking a re-opening of the claim on various legal and procedural grounds (i.e. bundling of non-industrial and industrial related treatment charges, improper billing by a provider, etc.). Given the fact that approximately \$30,000 in interest was accruing monthly, this request was accompanied by frequent and persistent communications with CMS.

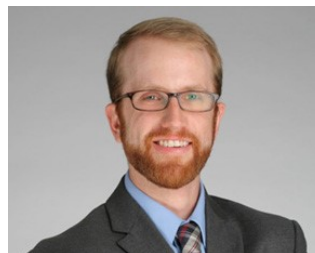
We were prepared to exhaust the Medicare appeals process in order to argue the validity of these non-industrial charges in federal court. Fortunately, it did not come to that as CMS ultimately agreed to reopen the claim and dismissed 98% of the asserted charges.

The purpose of this article is not just to brag about a favorable result for our client but to illustrate the importance of understanding and pursuing all of your options when disputing conditional lien charges. The best practice remains accurate and specific reporting of the accepted injuries as well as submitting timely disputes. However, this case illustrates that a missed deadline or unfavorable determination is not necessarily fatal.

The Dickie, McCamey & Chilcote Medicare Compliance Group is available to your organization with all aspects of Medicare Secondary Payer compliance, including the resolution of any conditional payment issues. If you have any questions, please feel free to contact us.



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