

What Providers Need to Know: Determining “Reasonable Value” for Future Medical Costs

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The Patient Protection and Affordable Care Act (ACA) requires all Americans to have health insurance – and health insurance companies cannot deny coverage for a pre-existing condition. This is not news – but what is new is the increased scrutiny and the changes in the methods used to determine the “reasonable value” of future medical costs. This comes into play in litigation cases between providers and health plans, and on behalf of

patients and providers involved in malpractice, workers’ compensation and personal injury cases. Health care providers should understand how the value of medical expenses are determined, especially future medical costs.

Recent court rulings have raised several questions around the reasonable value of health care. In personal injury or malpractice claims, reasonable value was historically driven by provider’s billed amounts for past and future medical services. However, the law did not consider negotiated discounts or write-offs as part of the ruling.

Then, in 2011, the California Supreme Court ruled in *Howell v. Hamilton Meats & Provisions, Inc.* that an injured plaintiff whose medical expenses are paid through private insurance could only recover the contractually adjusted amount that was actually paid – not the full amount billed. This significantly impacted personal injury cases from

both a plaintiff’s and defendant’s perspective.

Future Medical Costs

Recent court rulings such as *Howell* have a wide-ranging effects on personal injury and malpractice claims. The ruling helped drive down a potential windfall of monetary recovery, discouraging frivolous malpractice lawsuits. Additionally, the case shines a light on the fact that health care providers are rarely paid in full and that they have contractual agreements to accept significantly less from health insurers.

The issue still remains on how medical services are valued. This is particularly important when a patient needs long-term care. Typically, an expert is called in to determine future medical costs of a life care plan. Since *Howell* did not address recovery for future medical services, future medical expenses continued to be primarily determined based on the provider’s

full billed amount.

In 2013, the Third Circuit Court of Appeals in California issued a ruling in *Corenbaum v. Lampkin* that limited the expert from using the full amount billed for past services to determine reasonable value for future medical services. However, it does not determine the cost of future medical services to a pre-negotiated rate paid by insurance companies.

How is Reasonable Value Determined for Medical Services Not Yet Received?

Today, reasonable value is often determined based on the rates the provider is normally paid by the plaintiff's insurer or by the usual customary and reasonable (UCR) rate. UCR rates are normally based on the amount paid for a medical service in a geographic area based on what providers in the area usually charge for the same or similar medical service. Since the UCR rate

is based on the average in a certain location, the rates are more stable and are not based on a single bill that is significantly higher or lower than what the market demands. Engaging a medical billing and reimbursement expert to determine and testify to the reasonable value of future medical services based on the provider's location is highly recommended. Whether you are on the plaintiff or defense side, determining the cost of medical care can be complicated and the guidance of an expert is critical to ensure you have a clear understanding of what is "fair and reasonable."

Be Prepared

As a result of the ACA and recent rulings, there are now increased, complicated factors to consider when determining reasonable value for future medical costs. Life care plans are carefully analyzed and the financial models that determine costs of future care may be based

on plaintiff's current insurance coverage. Understanding the nuances in the health care industry, especially the implications of medical billing and reimbursement, can ensure a more favorable outcome.

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