



# the medical Review

## California Order Protects Patients From Balance Billing

In September 2006, California Governor Arnold Schwarzenegger signed an executive order aimed at taking patients out of reimbursement disputes. This order directed the Department of Managed Health Care to take any and all regulatory steps to protect the patients from receiving bills on claims that insurers deny. The order includes a provision that non-participating physicians and providers who render emergency care in California will no longer be able to collect these disputed reimbursement amounts from patients; they will need to deal directly with the insurer that denied payment.

The Department will review criteria used by health plans to determine the value of non-contracted medical services in order to ensure that providers are fairly reimbursed. In addition, an

independent dispute resolution process will be implemented to settle reimbursement issues. Although this order is mainly for managed care plans, it will likely set the "gold standard" for all claims' reimbursement review in California.

This comes as good news during a time where facility and provider charges are ever increasing and reasonable and customary language is getting more difficult to enforce. Managed care plans should take full advantage of this provision in assessing their out of network claims but must have consistent bill review processes in order to stand up to the scrutiny of the Department. Other payors should also test these boundaries in reducing claims in California to see if they can benefit from this order as well.

### TRANSPLANT INFORMATION: BY THE NUMBERS

**94,141**  
Number of patients waiting for an organ transplant (as of 11/12/06)

**68,950**  
Number of kidney patients awaiting transplant (largest category) (as of 11/12/06)

**19,719**  
Number of total transplants performed from January through August 2006

**4,623**  
Number of living donor transplants performed from January through August 2006

Source: The Organ Procurement and Transplantation Network

## Pentostatin Therapy

Pentostatin (Nipent) belongs to the group of medicines called antimetabolites. It has been approved by the FDA for the treatment of hairy cell leukemia and has also been used to treat cutaneous T cell lymphoma. Pentostatin interferes with the way cancer cells of the blood grow. Recently published studies have demonstrated pentostatin is a highly active agent in other indolent non-Hodgkins lymphoma variants, including follicular lymphoma and marginal zone lymphoma.

There is less experience with pentostatin as a single agent, but it has demonstrated two major advantages over other drugs in its class: It has decreased myelotoxicity so there is less need to reduce the doses of drugs when used in combination, and pentostatin appears to effect stem cells less, allowing for the possibility of pursuing an autologous stem cell transplant. The addition of rituximab (Rituxan), the monoclonal antibody specific for CD20, to the combination of pentostatin and cyclophosphamide has been

shown to generate significantly more overall and complete clinical responses for either previously treated or untreated patients. Responses to this regimen were achieved in 91% of patients with complete responses seen in 41%.

The amount and dosing schedule for pentostatin depends on many factors, including height and weight, and the type of lymphoma the patient has. The drug is sold in ten milligram (10 mg) vials with an average wholesale price of approximately \$3,000/vial.

Medical errors cost the nation about \$37.6 billion each year

### THE BOTTOM LINE



# Holding Hospitals Are Financially Responsible For Medical Errors

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44,000 to 98,000 people die in hospitals each year as the result of preventable medical errors.

Adverse clinical events are responsible for significant morbidity and mortality in the United States. In 2002, the National Quality Forum (NQF) endorsed a list of 27 adverse events that were deemed serious, largely preventable and concerning to both patients and health-care providers. In 2006, that list was increased to 28. Several states have adopted the list, either wholly or in part, as part of their required public reporting system.

In November 2006, the Leapfrog Group, a national coalition that represents many of the nation's largest corporations and public agencies that buy health benefits on behalf of their employees, dependants, and retirees attempted to take the NQF list even further. They are asking hospitals to voluntarily agree to be held accountable for "never events" as they have termed the list. These events occur rarely, are clearly identifiable and should never happen. Their proposal recommends four actions when these medical errors occur. The hospital must apologize to the patient, notify at least one reporting agency such as JCAHO, perform a root cause analysis and either waive all costs directly related to the event or pay for additional care that is necessary as a result of the event. This would mean that hospitals will not bill a patient or third party payer for any costs directly related to a "never event". There are no criteria outlined for determining which costs are directly related to the event and each case would need individual evaluation. Thus, there is an opportunity for subjective interpretation on an individual claim both by the payors and providers.

Hospitals agreeing to adopt these measures would be recognized publicly through the 2007 Leapfrog Hospital Quality and Safety Survey. The American Hospital Association has endorsed the policy as well. Some health plans, such as Health Partners, are reworking their contracts with hospitals that preclude hospitals from billing for "never events". Employers such as GM and IBM are encouraging hospitals that they work with to sign on to Leapfrog's four recommendations. The 28 NQF events are listed in the sidebar.

1. Artificial insemination with the wrong donor sperm or donor egg
2. Unintended retention of a foreign object in a patient after surgery or other procedure
3. Patient death or serious disability associated with patient disappearance
4. Patient death or serious disability associated with a medication error
5. Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO/HLA-incompatible blood or blood products
6. Patient death or serious disability associated with an electric shock or elective cardioversion
7. Patient death or serious disability associated with a fall
8. Surgery performed on the wrong body part
9. Surgery performed on the wrong patient
10. Wrong surgical procedure performed on a patient
11. Intraoperative or immediately post-operative death in an ASA Class I patient
12. Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics
13. Patient death or serious disability associated with the improper use or function of a device in patient care
14. Patient death or serious disability associated with air embolism
15. Infant discharged to the wrong person
16. Patient suicide, or attempted suicide resulting in serious disability
17. Maternal death or serious disability associated with labor or delivery in a low-risk pregnancy
18. Patient death or serious disability associated with hypoglycemia which occurs in a healthcare facility
19. Death or serious disability (kernicterus) associated with failure to identify and treat hyperbilirubinemia in neonates
20. Stage 3 or 4 pressure ulcers acquired after admission
21. Patient death or serious disability due to spinal manipulative therapy
22. Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances
23. Patient death or serious disability associated with a burn incurred from any source while being cared for in a healthcare facility
24. Patient death or serious disability associated with the use of restraints or bedrails
25. Care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider
26. Abduction of a patient of any age
27. Sexual assault on a patient
28. Death or significant injury of a patient or staff member resulting from a physical assault

