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Don't Let Inflated Medical Billing and Provider Bias Take the Wind
Out of Your Sails

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The Rising Impact of Inflated Medical Billing in Transportation Litigation

Inflated medical billing is one of the most significant drivers of exposure in transportation litigation. In many jurisdictions, juries are presented with the full amount of billed medical expenses, regardless of whether those amounts reflect the true market value of care. As a result, medical specials frequently serve as the anchor for noneconomic damages, dramatically increasing verdict potential even in cases with defensible liability. This shifting landscape requires defense counsel and corporate defendants to move beyond traditional liability-focused strategies and instead develop a proactive approach to identifying, challenging, and contextualizing inflated medical billing.

Understanding the “Medical Billing Multiplier Effect”

Inflated medical bills rarely exist in isolation. Instead, they function as a multiplier that impacts all aspects of case valuation.

Typical progression includes:

- Modest underlying injury or minimal property damage
- Attorney and referral-driven treatment and early escalation of care
- Use of lien-based or third-party billing structures
- Significant inflation of billed charges
- Plaintiff reliance on billed amounts to justify high damages model

This multiplier effect often results in disproportionate settlement demands and increased risk of nuclear verdicts.

The Role of Billed Charges as an Anchor

Jurors frequently rely on billed medical expenses as a benchmark for determining damages. Even when evidence suggests that the billed amounts exceed reasonable or customary charges, the initial number can shape the jury's perception of the case.

Without effective countermeasures, inflated medical bills can:

- Establish an artificially high baseline for damages
- Increase pain and suffering calculations
- Shift focus away from liability defenses
- Make cases more difficult to settle

Common Structures Driving Inflated Medical Billing

Understanding how inflated billing is generated is critical to developing an effective defense strategy.

Letter of Protection and Third-Party Billing Models

Many providers operate outside traditional insurance systems and instead rely on lien-based or third-party billing arrangements. Under these models:

- Providers do not bill or have contracts with health insurance
- Payment is deferred until resolution of the claim
- Charges are often set without reference to negotiated insurance rates

These arrangements can result in significantly higher billed amounts compared to insured care.

Referral Networks and Coordinated Care

Plaintiffs are often referred through a sequence of providers, which may include:

- Chiropractors or initial treating providers
- Imaging facilities
- Pain management specialists
- Surgical providers
- Physical Therapists

This coordinated progression of care can contribute to escalating treatment and increased billing.

Charge Master Pricing and Lack of Transparency

In many cases, providers rely on internal “charge masters” to establish pricing. These charges may:

- Be based on comparisons to other lien-based providers offering the same or similar service(s) in the same geographical area
- Lack correlation to insurance reimbursement rates
- Not be disclosed to patients at the time of treatment

The absence of pricing transparency raises significant questions regarding reasonableness and fairness. Before beginning treatment, patients are often required to sign a form that acknowledges the patient’s financial responsibility for all charges whether covered by any payout or not. In essence, patients are agreeing to be personally responsible for charges without ever knowing the amount being charged for services and treatment.

Indicators of Potentially Inflated Medical Billing

Certain patterns frequently appear in cases involving inflated medical expenses.

Treatment and Billing Red Flags

Defense counsel should be alert to the following:

- Treatment initiated shortly after attorney involvement
- Providers operating outside traditional insurance networks
- Early escalation of care that is not supported by objective findings
- Identical or recurring referral patterns across cases
- High-cost procedures with limited objective findings
- Billing amounts significantly exceeding market or Medicare rates

Discovery Strategies to Challenge Inflated Medical Bills

Effective litigation requires early and targeted discovery focused on billing practices and provider relationships.

Third-Party Discovery to Medical Providers

Key areas of inquiry include:

- Financial relationships with referring attorneys
- Ownership interests in related entities
- Contracts with insurance companies
- Historical collection rates on liens
- Agreements with litigation funding companies
- Internal billing policies and charge development

Analysis of CPT Codes and Billing Practices

A detailed review of CPT coding and billing entries can reveal:

- Upcoding or unnecessary procedures
- Duplicate or bundled charges
- Charges inconsistent with industry standards

Comparison to Medicare rates and regional benchmarks can provide a useful framework for evaluating reasonableness. Simply knowing how to read and understand a medical bill is invaluable.

Exploring Provider Bias

Provider bias is a critical component of the defense strategy. Relevant areas include:

- Percentage of patients referred by attorneys
- Frequency of testimony in litigation
- Financial dependence on lien-based treatment
- Communication with plaintiff's counsel regarding care

Establishing bias can significantly impact credibility at trial.

Strategic Considerations for Corporate Defendants

From a corporate perspective, inflated medical billing presents unique challenges that extend beyond individual cases.

Impact on Case Valuation and Reserves

Inflated medical specials can:

- Distort early case evaluation
- Increase reserve requirements
- Drive settlement pressure irrespective of liability

Importance of Early Intervention

Early identification and analysis of medical billing issues allow defense teams to:

- Develop a cohesive damages strategy
- Retain appropriate experts
- Shape discovery and deposition strategy
- Avoid late-stage surprises

Trial Strategies to Address Inflated Medical Billing

Successfully presenting these issues to a jury requires clarity and simplicity.

Framing the Issue for the Jury

Rather than focusing solely on technical billing concepts, effective trial strategies emphasize:

- The difference between billed charges and reasonable value
- Lack of transparency in pricing
- Financial incentives underlying treatment decisions

Use of Comparative Evidence

Demonstrative evidence comparing billed charges, Medicare reimbursement rates and typical market rates can help jurors understand the disparity in a clear and compelling way.

Key Takeaways

- Inflated medical billing is a primary driver of verdict exposure in transportation cases
- Lien-based treatment models often operate outside traditional pricing structures
- Early and targeted discovery is essential
- Provider bias and financial incentives are critical areas of inquiry
- Effective trial presentation requires simplifying complex billing concepts