

Deals and Discounts Meet Billing

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An interesting and trending question that many have inquired about recently has to do with how to use a Groupon style service and knowing how to bill with this service when a patient has insurance.

Using this type of marketing protocol creates some dilemmas for the health care provider, specifically to the legality of its basic use in addition to how it may be billed for insurance claims.

I am not an attorney, and it is my suggestion for any licensed acupuncturist, who wishes to engage in the services or use of Groupon® or similar internet daily deals to clarify with his or her legal counsel as to the specific issues of illegal kickbacks that these offers may violate.

With the proliferation of Internet health care discount programs (i.e., Groupon®, Living Social) that the federal anti-kickback law (42 U.S.C. 1320a-7b) prohibits the offer or receipt of remuneration in return for referrals for or recommending purchase of supplies and services reimbursable under federal health care programs. The referral service or discount safe harbors (42 C.F.R. §1001.952) issued under this statute may not extend to most types of Internet discount programs.

In simple terms these programs may be deemed illegal for health care providers due to direct payment or kickback for a referral to the referring party. Even the most novice health care provider should be aware that they may not directly pay someone for a referral and ultimately these programs may be doing just that.

However, if the service were not being paid by specific referral(s) but by charging a flat fee for marketing with the fee paid being the same regardless of the number of referrals, it would not violate any of the anti-kickback laws. I have heard Groupon® is addressing this issue to ensure its business model fits within the legal parameters of referrals and payment for their service. But ultimately it is the provider's responsibility to insure they are working within the legal bounds and I recommend you inquire with any group you engage to provide this type of service as to how they have addressed this issue.

When it comes to billing, first and foremost the amount billed to any insurance on this type of deal must be at the amount paid by the patient and not your regular rate. Patient and insurance are equal, and their insurance for the same service must be billed at that amount if patient is only being billed \$50. If you were to bill the regular rate, the patient would receive the benefit of an amount they did not pay or were expected to pay. For instance, a patient pays \$50 for a service but the insurance is billed at \$100. The patient would have \$100 dollars of benefits applied even though their liability is only \$50. This assumes you are not a member provider of the insurance plan where you have direct contracted allowance that may be lower than your regular rate.

I have seen billing often done improperly when the patient is receiving a "cash or pay at the time of service discount." The patient receives services at the discount price, but the insurance is billed at the provider's regular rate. Often this occurs with high deductible plans and even though the

charges may only apply to deductible the patient is receiving the benefit of the regular price towards deductible, but is paying and liable only for a discounted amount.

Another billing problem for an insurance claim arises when these discount programs are utilized for a group or several services for a single discounted price. When it is a single service like acupuncture (97810 or 97813) or massage, the billing is simple. The code for that service is billed at the amount paid. For instance, acupuncture manual, 97810, \$50 as that was the amount paid is then simply billed at \$50 to the insurance carrier.

But when an offer is made for a visit that would include examination and treatment, that single price would potentially spread over all the services provided. Now the provider must decide how to divide the fee over several services. If it is two services, such as an exam and acupuncture, the provider could bill each service at 50 percent of the charged amount or any ratio, as long as the total amount billed equals the amount paid. Another option is the provider could simply bill a single service at the amount paid and consider the other service as inclusive or free to the visit.

It is my opinion that either is acceptable as long as the amount billed is equal to what was paid. However, potential reimbursement from their insurance plan may be better when each service is itemized and billed as a separate line item.

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