



## **AMA vs. UnitedHealth Group Settlement Q&A**

### **1. What prompted the recent highly publicized UnitedHealth Group settlement?**

There were two settlements actually. Both stem from the fact that UnitedHealth Group was using a flawed database operated by Ingenix, a UnitedHealth Group subsidiary, to determine its out-of-network payment rates. The flawed Ingenix database increased insurers' profits at the expense of patients and physicians.

As a result of the first settlement with New York Attorney General Andrew Cuomo, United is required to pay \$50 million toward establishing a new, independent database to be used by health insurers to determine the rate paid to patients and their physicians and other health care providers for out-of-network care. This new database, to be created by an academic institution, should result in paying out-of-network physicians more fairly and protect patients from paying higher out-of-pocket expenses.

A second settlement was announced a day after the first settlement when UnitedHealth Group agreed to pay \$350 million to fund the settlement of a lawsuit seeking additional reimbursement on behalf of health plan members and out-of-network physicians and other health care providers who may have received payments based on the flawed Ingenix database. Thousands of physicians may be eligible for settlement dollars, and the AMA will be developing several resources to help physicians determine eligibility and offer guidance to those seeking to file a claim once the settlement is finalized. The class action lawsuit also required UnitedHealth Group to commit to its obligations toward establishing and funding the new database under the auspices of the New York Attorney General, ensuring that this was an obligation enforceable in court. The court is currently reviewing the settlement, as is required before the settlement can be finalized.

### **2. What role did the AMA play in securing these settlements?**

The AMA was instrumental in helping shine light on abusive practices resulting from health insurers' use of the flawed Ingenix database. In 2000 the AMA was joined by the Medical Society of the State of New York, the Missouri State Medical Association and several other parties in initiating a lawsuit against United for using the flawed Ingenix database to determine out-of-network payment rates. Evidence gathered in the course of this litigation was brought to the attention of New York Attorney General Andrew Cuomo. The AMA urged Mr. Cuomo to investigate the abuses, which his own investigation confirmed. While United admits to no wrong-doing, it decided to settle the case out of court, agreeing to pay \$350 million to physicians and patients whose payments were based on skewed data.

### **3. What do these settlements mean for physicians?**

The litigation settlement (which seeks money damages for physicians) means that literally thousands of physicians who were shortchanged may be eligible to receive settlement dollars. The New York Attorney General settlement means that a new, independent database will be created, establishing a fair and honest system to determine payment rates for out-of-network services.

#### **4. How do I know whether I am eligible for reimbursement?**

While the settlement is not yet approved by the Court, under the current plan of allocation, you must meet both of the following requirements to be eligible to recover proceeds from this settlement:

- 1) have provided covered out-of-network services between March 15, 1994 up to the final approval date of this settlement to patients who were covered by a health plan insured or administered by UnitedHealthcare, Oxford Health Plans, Metropolitan Life Insurance Company or any of those companies' parents, subsidiaries, affiliates, predecessors or successors ("Defendants"); and
- 2) have billed one of the Defendants for these services pursuant to an assignment (a document signed by the patient or the patient's legal representative which transfers to you, the physician, the patient's rights to recover the out-of-network benefit from a Defendant).

Physicians who have received payment directly from a Defendant for out-of-network services are deemed to have billed pursuant to an assignment.

If you provided out-of-network services but did not receive an assignment of benefits from some or any of your patients, you may still benefit from this settlement through your patients. More information will be available when the settlement obtains preliminary approval and the class notice is disseminated.

#### **5. What do I need to do to file a claim?**

As soon as the specific requirements for filing a claim to recover your share of the \$350 million dollar settlement are finalized, the AMA will make available a detailed step-by-step instruction guide to assist physicians in filing claims. In the meantime, even though the settlement has not been finalized, it currently reads that in order to receive your portion of the damages fund, you will need to provide, at a minimum, proof that you billed or were deemed to have billed a Defendant for out-of-network services provided between March 15, 1994 to the final approval date of the settlement pursuant to an assignment. Those who want to be prepared for filing settlement claims may wish to locate and keep accessible all the following paper or electronic documents or practice management system reports relevant to any of the Defendants and going back to 1994, including:

- 1) assignments of benefits from your patient;
- 2) out-of-network claim submission;
- 3) explanation of payments/remittance advice;
- 4) adjusted bill (balance bill) sent to the patient;
- 5) payment plan with patient (if applicable); and
- 6) report or adjusted bill sent to a collections agency.

While the settlement is not finalized, as it currently reads, the above information will greatly assist you in filing for your recovery.

**6. What should I do if I provide out-of-network care to a UnitedHealth Group beneficiary during the interval between the settlement approval and the start of a new independent UCR database?**

By all means, if you receive an assignment of benefits, you should submit a claim directly to UnitedHealth Group. If United pays you less than the amount to which you are entitled because of a UCR reduction, you should take whatever steps United allows for an appeal of the reduction, as provided in the patient's insurance policy. As part of the appeal, you should indicate that the New York Attorney General has found the Ingenix database to be flawed and that reductions based on that database are invalid. If you have exhausted your appeal rights but are still dissatisfied with the results, you may be able to file for damages from the settlement fund discussed above. You may also want to consult with an attorney regarding your legal rights under the Settlement Agreement.

**7. Is there something I can do in the long run to protect my practice and make sure I receive accurate payments?**

Yes, now that these settlements will bring complete transparency to out-of-network physician billed charges as well as an accurate, legitimate data warehouse that will compile physicians' out-of-network charges, it is more critical than ever for physicians to maintain an accurate physician practice fee schedule. The physician practice fee schedule should appropriately reflect the physician's training, qualifications, length of time in practice, skills, practice expenses and other relevant factors.

The AMA has created a fee schedule analysis educational document which was developed to help physicians and their practice staff to establish their practice fee schedule based on what it actually costs to provide a service rather than basing their fee schedule on what a third-party payer or other entity decides is fair payment. This resource includes a 12-step guide to help physician practices create their own unique physician practice fee schedule with an easy-to-complete spreadsheet along with the interactive spreadsheet that allows physicians to create their unique physician practice fee schedule by entering practice-specific information. Visit the AMA's Practice Management Center at [www.ama-assn.org/go/pmc](http://www.ama-assn.org/go/pmc) to view this resource. Select "PSA toolkits" from the right-hand side, then "[Defensible fee schedule toolkit](#)."

You can also protect your practice from inappropriate payment reductions for out-of-network services by using the AMA Practice Management Center's "Out-of-network services toolkit." Visit the AMA Practice Management Center at [www.ama-assn.org/go/pmc](http://www.ama-assn.org/go/pmc) and select "PSA toolkits" from the right-hand side, then "[Out-of-network services toolkit](#)."