Workers' Comp

Demystifying the Nuances of Specialty Bill Review Regulations

October 4, 2024
9 MIN READ
Author profile image

Trevor Davis

Director, Regulatory Affairs

Listen on Spotify

Tom Kerr: In the ever-changing world of workers' comp, it's difficult to keep up with regulatory changes that impact our industry. This is especially true with specialty bill review and issues that affect provider dispute management. To help us better understand these issues, we've invited Trevor Davis, director of regulatory affairs for Enlyte's Casualty Solutions Group to discuss.

Trevor, thanks for joining us today.

Trevor Davis: Good to be here, Tom.

Kerr: So Trevor, let's start off with the basics here. What are the key issues in specialty bill review (SBR) today?

Davis: I would have to say one of the main issues we face in specialty bill review is dispute management on behalf of our customers, in that we, in specialty bill review, recommend to our customers an appropriate amount to pay for compensable medical bills.

And I say compensable because specialty bill review is limited to workers' compensation claims. As you can imagine, a provider who bills a certain amount or seeks a certain amount of reimbursement, when they don't receive that amount, usually, they have questions or objections. They can either informally pursue dispute resolution by calling the insurance company and filing reconsideration, or following more formal dispute measures, such as filing claims with the state board or state agency responsible for handling those disputes, or even going to court, if that's what the jurisdiction has set up.

Kerr: And how does SBR solve for some of these issues?

Davis: On the product side, we take responsibility for recommendations we issue that are backed up by our understanding of the law and our extensive data sources that underlie our recommendations. And, we also have tailored ways to interact with the provider to explain what we've done on the initial review and in reconsiderations and additional information received.

We also solve for these with our active lobbying and government relations programs. I'm responsible, as part of our government relations team, for carrying forward those goals and objectives to help make sure that dispute rules in the various state are clear, balanced, make sense, and impose rational burdens and expectations on both the payer's side and the medical provider's side.

Kerr: What states do you consider hot areas for regulation change in specialty bill review and what are the issues that they are addressing?

Davis: Great question. So, Florida which, I'm sure most of our listeners know, has recently undergone changes to their provider manuals, the hospital manuals, changing from an inpatient structure to a per diem structure. Florida has been quite significant recently as a "a hot area for specialty bill review." Specialty bill review thrives most in creating value for our customers where there's not a clear, specific, state-mandated fee schedule, i.e., the state tells you what to pay for a given medical service.

It doesn't matter what the provider bills unless there's a contract in place, of course. It doesn't matter what the provider bills or what the provider seeks. If the state defines the value of that medical service, that's what you pay. And, our experience has been when there are fee schedules in place for those clear values, provider payers don't pay as much as the bill charges, but sometimes pay more than they have in the past. Florida has gone the route of imposing more regulations, and that narrows the scope of available specialty bill review opportunities in that state.

The other state I would say is a hot topic would be New Jersey because that's an example of where Enlyte is using its on-the-ground lobbyists to effectuate policy changes and procedural changes to improve the playing environment between payers and providers. Specifically, trying to get a statute of limitations to limit the amount of time a provider can come and dispute what it's received for a medical claim it's filed.

Kerr: And, how do regulatory professionals like yourself and lobbyists work to educate legislators on these issues?

Davis: Very good question. We work as a team, is the best way to say it. I am part of the team within Enlyte that includes Michele Hibbert, my boss; Brian Allen, who's responsible for pharmacy matters; and Lisa Robinson, who assists on workers' compensation and education matters. And other members, also, from the Coventry side who handle network issues.

But, the main things that we do is work with trade associations. Enlyte is a member of AAPAN — American Association of Payers, Administrators, and Networks. It's a trade association to work with other members in the cost containment space, whether it's networks, whether it's utilization review, whether it's medical bill, standard medical review, specialty bill review. It works with other entities in the space to help effectuate reasonable rules and clarification of rules that governing bodies put into place.

We also write white papers, attend conferences and have panel members on conferences. We meet with legislators and regulators regularly throughout the year. For example, Florida sponsors workshops on proposed regulations.

And finally, and as importantly, the professionals go to committee hearings, whether it's in session or between sessions, to testify before regulators and legislators to educate them on the specific issues and what we've seen that works at other states and doesn't work in other states.

Kerr: OK, and what about states where Enlyte isn't involved in specialty bill review? What are some of the reasons SBR isn't featured in those states?

Davis: Another good question. The two main drivers for the success of specialty bill review are data availability on what the providers charge, what they accept as payments, and what it costs the providers. And, we have access to many different sources and many volumes of data. But, most importantly, is what the law in that state says about a payer's duty to reimburse a medical provider. And bluntly, some of the laws are written in ways that don't offer much opportunity for SBR to create value.

There are some examples of fee schedule states that are very well written, and very thoroughly written where it's clear and the state tells payers, "Here's what you shall pay," and there's not much room for ambiguity or interpretation or gray areas.

There are other states where there is no fee schedule, which is not a problem because there's always a law that sets forth the payment standard for the payer. That means, here's the amount that you have to pay, whether it's prevailing rate, whether it's usual and customary rate. There's always a law in a state for work comp that says what a payer should pay.

In those states where the law doesn't very much allow room for SBR to operate, that's one major factor where we don't offer that service.

Another situation where SBR is not featured in a state might be a regulatory environment that is more pro-provider and less focused on cost containment. That would make it ill-advised or not very efficient or not to the benefit of our customers to offer specialty bill review services where they might not be received as well. Even though the goal is for our customers to pay an appropriate amount under the law of what the agency deems an appropriate amount, what the law says might be two different things. And it might work out for the business interest of our customers not to pursue specialty bill review in that situation, whereas other Enlyte solutions might be a better fit.

Kerr: OK, and with Enlyte's lobbying efforts, what type of success has it played in shaping the regulatory landscape in these states?

Davis: I would say we've had very good success over the years with government relations, including lobbying efforts. I tend to divide it like this: lobbying is talking to legislators, and government relations is talking to regulators and everybody else. It's not a hard-and-fast rule. It's just kind of how it's divided up.

We, at Enlyte, have taken the lead in that we have lobbying firms that we engage, we pay for, we direct in seven states, currently. That's Arizona, Florida, Georgia, Indiana, Michigan, Missouri, and New Jersey.

Several of these states are very high on the list for value proposition for specialty bill review. Some of the states like Michigan and Georgia, Enlyte has relatively recently added, within the last three years, in terms of automobile claims, and automobile medical payments, and tort reform.

So, we are working with the regulators in those states to talk about what we've seen in other states to help bring down claims cost and insurance claims adjusting, and litigation settlement practice to help benefit the industry on the auto side for Michigan and Georgia.

On the workers' compensation side, a lot of what we're doing is trying to either maintain the status quo or make incremental improvements on those. And one of the specific successes that we can point to is going back to the first thing we talked about, dispute management. We have successfully placed in restrictions on balance billing the patient in New Jersey in the workers' compensation side. Most states have that explicit protection. We lobbied and got that put in.

In other states, one of our main goals has been to get a statute of limitations for medical fee disputes. That particularly benefits our customers in their claims handling, being able to close a claim timely, being able to project expenses more accurately, less general headaches and anxiety for the claims adjusters, and supervisors, and all the personnel handling those claims.

It also imposes reasonable duties on providers such that if they submit a bill and don't get paid what they believe is a right amount, they don't have 4 years, 6 years, 10 years, an indeterminate amount to have that claim hanging out there. If you feel you're owed some money, you have a reasonable period. You're put on notice. Go file a claim or get it resolved.

So, that statute of limitations is one of those successful areas that we're continuing to work, as in New Jersey, but also have successfully implemented in Arizona, Missouri, and in Indiana.

Kerr: What role does SBR play in overall cost containment?

Davis: Our goal in SBR is to advise and recommend to our customers to pay an appropriate amount for a medical bill in workers' compensation that's based on the law, the data, and our expertise, which includes programming expertise, legal consultation, and medical personnel, medical professionals.

So, it's an overall approach to trying to get that recommendation. And it fits into overall cost containment where a contract doesn't apply or where a discrete dollar amount in a fee schedule doesn't exist.

I tend to think of it as the gray area. If you ask the general question — "what's a reasonable amount to pay for this medical bill?" — the state might already answer that question and tell you what the answer is.

However, the answer might be ambiguous or vague for 90 percent of usual and customary charges, and the term "usual and customary charge" is undefined. With our expertise, understanding of the law, the requirements of the jurisdiction, the data for that provider and comparable providers, we can give a recommendation.

And it’s not just one right answer. We give a range. We take in all the variables based on our 20-plus years of experience in doing this. We make sure the provider paid a fair price on the low end and, our customers, most importantly, are not overpaying.

And what we do is tailor our workflows to the risk tolerance of each of our clients. In some cases, maybe SBR isn’t a great fit for the book of business for a particular customer in a jurisdiction, but that could lead to negotiations. That can also leave room for contracts and networks.

So, we are designed to work as part of the whole, including our bill review platform, SmartAdvisor and DecisionPoint. We work together with those in the right spot that works best for our clients’ business goals and risk tolerance.

Kerr: Thanks, Trevor. And we’ll be back with another podcast soon. Until then, thanks for listening.



©2022 Enlyte Group, LLC.

mitchell | genex | coventry