



BULLETIN B 07-06

TO: HEALTH CARE INSURERS AND OTHER INTERESTED PARTIES

RE: UNFAIR TRADE PRACTICES

It has come to the attention of the Division of Insurance that some insurers are engaging in practices that the division considers violations of AS 21.36 (Alaska's Trade Practices and Frauds Act), including the unfair claim settlement practices provisions of AS 21.36.125 and the prompt payment of health care insurance claims provisions of AS 21.36.128 as outlined below.

1. Delaying payment of a claim for purposes of negotiating discounts with the health care provider or facility.
 - AS 21.36.128 defines a "clean claim" as "a claim that does not have a defect or impropriety, including a lack of any required substantiating documentation, or a particular circumstance requiring special treatment that prevents timely payment of the claim." Delaying payment for purposes of negotiating a discount is not a valid reason for considering the claim not to be clean and a delay in payment for that reason beyond the timeframes in AS 21.36.128 is subject to the 15 percent interest penalty in AS 21.36.128(c) or (d).
 - AS 21.36.125(a)(6) prohibits an insurer from failing to "attempt in good faith to make prompt and equitable settlement of claims in which liability is reasonably clear." If a claim is otherwise clean but payment is delayed in order to negotiate discounted fees or charges, that delay is a violation of this section subject to penalties under AS 21.36.
2. Attempting to recover overpayments or otherwise correct benefit payments made to a health care provider or facility long after the final payment on a claim has been made.
 - AS 21.36.125(a)(3) states that an insurer may not "fail to adopt and implement reasonable standards for prompt investigation of claims." The division considers recovering or attempting to recover overpayments or otherwise correct payments after the time period allowed for an insured to appeal or submit a claim to be a violation of this section. Legitimate attempts to recover amounts mistakenly paid as allowed under AS 21.54.020(d) must be done within a reasonable time frame after the payment is made.

3. Reducing payment on a current claim to a provider or facility for an overpayment on a previous claim with the same provider or facility would be a violation of AS 21.36.125(a)(6) and 21.36.128 unless
 - the reduction is made as described in 2 above; and
 - the reduction in payment does not result in a reduction in the amount allowed on a covered individual's current claim.
4. Paying benefits at the out-of-network level for covered services provided by a non-contracted health care provider if
 - the non-contracted health care provider performs the services as part of a covered stay at a contracted facility; and
 - the covered individual does not have or is not given a choice as to who performs the services.

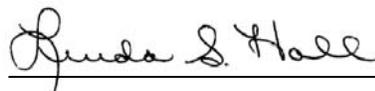
For example: An individual who receives prior authorization for surgery at a contracted hospital where the anesthesiologist is not a contracted provider. In this case, the anesthesiologist's services must be covered as though the anesthesiologist is a contracted provider and benefits must be provided, at a minimum, at the in-network level of benefits (deductible, coinsurance, copayments, etc.). But, if services are provided during a covered non-contracted facility stay, benefits for the services for non-contracted providers may be paid at the out-of-network level of benefits.

AS 21.36.125(a)(17) references violations of AS 21.07. The circumstance described in 4 above is a violation of AS 21.07.030.

A policy or certificate that contains language that does not comply with any requirement described in items 1 through 4 must be revised accordingly and filed with the division, as required under AS 21.42.120.

If you have questions regarding this bulletin, contact Katie Campbell by phone at (907) 465-4607 or by e-mail at katie.campbell@alaska.gov.

Dated this 21st day of December, 2007 at Anchorage, Alaska.



Linda S. Hall
Director