

Healthcare Providers and Fee Pricing (Revised 1-12-05)

We revised this article on January 12. The revisions are in italics.

Licensed Acupuncturists may have questions about how to decide their fees for their services to avoid charges of inequitable pricing. The Oregon Acupuncture Association has obtained some opinions on these matters for the state of Oregon, which are described in this article. We strive to obtain the most accurate information in our articles, however they are not legal advice and an attorney should be consulted for such information. Check the laws in your state, since each state determines its own laws on these matters.

What Does the Law Say?

Like other states, Oregon does not have specific laws on the issues of equitable fee pricing. Oregon does have a law called the "Insurance Code", which is enforced by the Insurance Division (aka the Insurance Commissioner). The Insurance Code regulates two types of relationships: a) those between insurance companies and providers, and b) those between insurance companies and patients. It does not pertain to relationships between providers and patients. Thus, the Insurance Code does not regulate the fees that a provider charges a patient, and matters like discounts and sliding scale. (Do note that Worker's Compensation law states that one can't bill Workers' Compensation claims any differently than other clients.) For questions on discounts, we need to obtain "impressions" from attorneys who specialize in that area of law. They study past legal cases to see what precedence the courts have set. OAA consulted an Oregon attorney familiar with insurance matters. Our explanations below are based on the impressions of that attorney, and on common knowledge of the business of healthcare. Remember this is not legal advice, consult an attorney if you need legal advice.

What is a Fee Schedule?

A "Fee Schedule" lists all the services that you offer and the prices that you charge for your services. It also defines any reductions of payments that you accept. It should be readily available to your patients. If you have a contract with an MCO, then they will determine the fees for those patients.

Your Fee Schedule Should Be: Reasonable, Defensible, Consistent and Publicized

Reasonable and Defensible: Your best protection against being found guilty of inequitable fee pricing is to charge reasonable amounts. The charges must be "defensible", i.e., you must have a rational explanation for them if your fee schedule is scrutinized. You can accept a lesser amount for payment, but these reductions and their conditions must be reasonable and rational as well. See below.

Consistent: Your fee schedule must be consistent. You must *charge everyone the same fees* - insurance companies, private pay patients, etc., but you *can accept different amounts for payment*, like reductions. Your fee schedule must define the reductions that you accept and be consistent in how you apply them.

Publicized: Your fee schedule must be made public to your patients (and available to insurance companies, etc. as needed). You should post your fee schedule in your lobby and/or give it to new patients.

"Time of Service" Reductions

Can I give my patients a discount (reduction of the charges) if they pay at the time of the appointment?

It appears that it is defensible for a provider to accept a reduced amount if the payment is made at the time of service. The reduced amount needs to be a reasonable value. This discount could be justified because:

- a-the provider does not need to pay for the cost of billing, checking on payment, etc.
- b-receiving payment at the time of service benefits the cash flow, affecting either interest paid on outstanding bills, or the interest earned on money in the bank.

For example, it costs you X\$ extra to bill an insurance company for a payment, as compared to receiving the payment from the patient at the time of the service. Thus, charging the insurance company the amount that you spend for billing would likely be considered reasonable and defensible. On the other hand, giving a large discount would not be rational. For example, a case occurred where a provider was billing PIP (Personal Injury Protection, Motor Vehicle Accident insurance) \$115 per treatment for their services. When the PIP insurance ran out, the provider gave the patient a discount and only charged them \$50 per treatment. Trouble! Their 54% reduction was not defensible because it was not rationally related to the cost of billing and the cost of waiting for payment.

Time of Service Reductions and Equity with Insurance Companies

Out of concern of being charged with insurance fraud, some practitioners prefer to add another "measure of safety" to their fee schedule. They offer a reduction for prompt payment to the insurance companies and make it similar to the time of service discount offered to patients. An example would be: if the insurance company mails the payment promptly, like in 8 business days, a specified reduction in fees would be accepted. This can be stamped on, or attached to, the HCFA billing statement.

Reduced Fees for Prepayment of a Group of Treatments

Be sure to see the section on prepayment of services below.

It appears defensible for a provider to accept a reasonably reduced payment if the patient pays for a group of treatments at once. The treatments need to be for a specific condition (see below.) For example, you typically charge \$70 per treatment, but you accept \$320 for 5 treatments of back pain, if it is paid in full by the time of the 1st treatment. Of course, the reduction would need to be a justifiable amount. You would have a hard time explaining the rationale for accepting a payment of \$200 for those 5 treatments.

Sliding Scale Fee Schedule

The information on this is not so clear, but it appears that one can have a policy of accepting reduced payments from financially destitute clients provided there is established criteria that determines when a client is in an indigent state. It is suggested to go by the federal poverty guidelines. This would likely be defensible to say that you are helping the community by serving patients who have absolutely no extra funds for healthcare.

Perhaps it would be defensible to offer reduced payments at certain days of the week, provided that all patients have equal access to the discounted times, and that the option is made "public" to your patients, like by posting it in your lobby. Or, you could donate your time at a community clinic. You can offer promotional treatments for free or a reduced price. Whatever you offer, make it reasonable, rational, consistent, and made public to your clients.

Prepayment of Services – Is It Considered “Conducting Insurance”?

The question has been raised as to whether pre-payment for healthcare services is considered conducting insurance and therefore would require a license to do so. The information below was obtained from the Oregon Insurance Division (i.e. Insurance Commissioner) in 12-04.

A- Payment ahead for specific services for specific health conditions is generally not considered conducting insurance.

For example: A provider can offer four stop smoking treatments for X\$, with payment of the X\$ at the first visit. A provider can accept payment from a patient for a 5-treatment series to treat their back pain. A provider can accept payment ahead from a patient for their co-payments for the next 4 treatments. These are generally not considered conducting insurance.

B- Payment ahead with the promise to cover "uncertain needs or costs" for a certain time period, i.e. "bearing the risk" for the client, is considered conducting insurance.

For example: A provider charges X\$ to maintain a patient's health for one year. This provider is conducting insurance. It seems that a very short term arrangement involving specific care is not conducting insurance. For example, one could charge X\$ for a stop smoking program for 2 weeks.

Item "B" is interesting because a few physicians recently are offering patients complete care for a year at a time, for a certain charge. This arrangement is called a "boutique" plan and concerns are being raised that this is "conducting insurance" and should be regulated as such.

Additionally, you may want to read Bulletin 96-2, which has been prepared by the Insurance Division to explain these matters to the public. It is available on line either by going to http://www.cbs.state.or.us/external/ins/docs/bulletins/bulletins_active.htm, or by going to www.Oregoninsurance.org, and selecting the menu item "Laws, rules and bulletins," and then scrolling down to the active bulletins until you reach Bulletin 96-2.

For an extensive report on this topic of prepayment of services, see this article from the newsletter, *Acupuncture Today*: <http://www.acupuncturetoday.com/archives2000/feb/02schroeder.html>