Patient Requests Write Off of All Co-payment

This is a valuable discussion which will clear up a common request from your patients, and serve to put others on notice for an all-too-common illegal policy.

Here is the scenario. One of our long-time loyal patients called us and indicated she had new insurance. However, her insurance does not cover posterior composite, but covers amalgam. She demanded that we give her the upgrade of posterior composite and not charge her a co-payment. The reason is she had talked to her co-worker, and her dentist wrote off all the co-payment including posterior composite. My staff tried to explain to her we cannot control what other doctors do or don't do, but we cannot write off all the co-payment and go into technical detail about why composite costs more (apparently she could care less). She got really upset and told us she had been coming to our office for seven long years, as are her son-in-law and grandkids because of her. Plus she is really short on cash, etc., etc., and on and on. We are in the Bay Area of California, unemployment rate is pretty high and she was laid off for almost a year and just got a job. I told my staff I have to think about this. What is the best approach to this? I know a lot of dentists in my area write off co-payments just to get patients in the door.

Well it’s not a matter of being “nice” and “sympathetic” to her plight. Writing off a co-pay is illegal! Plain and simple… it’s illegal! Tell her you simply can’t write off the co-pay because your license to practice could be in jeopardy!

Tell her the best option you can offer her is a payment plan. Tell her you really appreciate her as a patient and wouldn’t want to lose her. Explain to her she isn’t getting ripped off with what you are doing, but what the others are doing is a desperate measure. A payment plan for her portion would help her out without shooting you in the leg. It’s fair.

So if you write off the co-pay for her, she will tell all the rest of the people that she sent to you, and they will expect it too. Technically, this is insurance fraud. Is she worth breaking the law for and the dealing with the consequences for?

If you just do it a couple of times, then she has you. You will have committed insurance fraud and she has the evidence against you to threaten you with.

I say discuss it with her and tell her about the legal and ethical problems it would create. Then charge her the correct fee. If she doesn’t want to stay, so be it.

If she stays you win, and if she goes – you still win.

As everyone has said, it is illegal, so it’s not a good idea. The primary reason insurance companies utilize co-pays and other cost sharing methods (e.g. 50 percent
for crowns) is to control costs. If you waive the co-pay you are also waiving the agreed upon cost control too. That’s not fair to the insurance company.

Unfortunately, payment plan is not an issue. She just doesn’t want to pay because her co-worker does not have to pay. I was almost going to tell her to go to her co-worker’s dentist, but stopped and counted to 10. I think I’ll try a very low monthly payment plan again and see what she decides on. I did not know a couple hundred dollars would cause such grief for this patient.

Are you kidding me? Why are we even allowing ourselves to cater to patients like this? Just trying to make a buck with your status at stake? Shoot, this kind of action not only puts you at risk, which by the way I would have no sympathy if you get caught, but also hurt surrounding dentists as a whole. You might not care about your colleagues, and I understand you have to look after number-one, but not like this.

If caught, I hope that dentist goes to prison! You are doing yourself and your colleagues a huge favor reporting that dentist.

Johnson, I have always been the kind of guy who advocates never accusing other dentists of anything, but if you are surrounded by dentists doing this and it’s hurting you badly, blow the whistle anonymously. These guys enrage me and truly deserve it.

Our front desk person is very clear about telling patients that they are asking us to commit insurance fraud and this something we don’t do.

Fine print, our front desk staff gets paid as salary plus percent of collections. So when a patient asks the front desk to forgo a co-pay, they are asking her to take a pay cut, right out of her wallet. It takes the front desk staff less than a millisecond to say to themselves “like I’m going to sit here and let this clown steal from me!”

One thing you can do to prevent discounting issues on amalgam/composite pricing is to have the same price for amalgams as you do for composites. Since I don’t do amalgams, it’s kind of a no brainer anyways.

This is what you say to her, and you do not allow it to progress to discussion.

“I understand that you are under financial stress, and that you do not understand why there is a difference in cost for amalgam versus composite. Simply put, my fees reflect my costs. The issue here is insurance fraud, which writing off/not collecting co-payments falls under, without question. Other dentists and physicians have gone to prison for such practices, and I have no interest in joining them.

“All that said, while I might lose your business, and even that of your family due to my insistence on practicing dentistry and running my business within the law, I risk losing all my patients, my freedom and my future if I’m ever caught doing something that is illegal in my business. I’m sure you can understand this. I look forward to seeing you at your next appointment.”

If she tries to engage in further discussion on this, cut her off and gently inform her that you “cannot discuss this any further and will be hanging up the phone now.” Then do it.
In general, it seems there are two issues discussed: breaking a contractual agreement and overbilling/fraud.

When you have signed a contractual agreement with an insurance company to be an in-network provider, usually the fine print says you cannot write off the copay. If you do, you are breaking a legally binding contract that you agreed to.

When you aren’t bound to any insurance company agreement and you write off a co-pay, that can be considered overbilling/fraud. You are submitting an insurance claim stating you are charging the patient one amount, and you are actually intending to charge the patient a different amount.

Here’s a clip from the ADA’s Code of Ethics:

5.B.1. Waiver of Copayment. A dentist who accepts a third party payment under a copayment plan as payment in full without disclosing to the third party that the patient’s payment portion will not be collected, is engaged in overbilling. The essence of this ethical impropriety is deception and misrepresentation; an overbilling dentist makes it appear to the third party that the charge to the patient for services rendered is higher than it actually is.

This article written by a dentist/attorney further muddies the water if you are in California: http://www.betterobin.com/oktoweave.html

The last paragraph, about insurance companies fighting this as a criminal rather than civil act, and using the RICO act is an eye-catcher. Especially if you’ve read the Dentaltown post about Roy Shelbourne!

Cloud9, I know you posted this to show “ethical obligation” and I appreciate that. But don’t get “ethical obligation” confused with “what is legal.” The ADA is not a legal entity and cannot prosecute members or non-members.

There is a major difference between practicing “ethically” and “legally.” It’s sad, but laws don’t reflect ethics oftentimes. My best recommendation would be to check out your state board regulations and your state insurance laws by contacting your state board of health and your state insurance commissioner respectively.

You made a good point, Mike. Ethics is different from legality. You can do unethical things and stay within the boundaries of laws. You might have to break the laws to maintain your ethical standpoint. Will you go to jail for that? Absolutely!

Yep, very true. That’s why I posted the second link by the dentist/attorney; it discusses the legal aspect, not the ethical aspect.

I wonder if the ADA addresses it from an ethical perspective because they don’t have legal enforcement, or maybe because legality seems to be more of a state-by-state issue, not a national issue.

Maybe it’s happened, but I’ve never heard of anyone, or seen any legal cases referenced, where writing off co-payments has actually been challenged by an insurance company, state dental board or by state attorney. Perhaps this is all a theoretical discussion, but in reality it is a non-issue.