

From: New York State Society of Anesthesiologists[SMTP:SOCIALMEDIA@NYSSA-PGA.ORG]

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Subject: Letter from the NYSSA President



NYSSA 2017 President,
Rose Berkun, M.D.

Monthly News & Updates

NEW YORK STATE

New York Attorney General Takes on Fee Splitting

A troubling new initiative is being undertaken by the New York state attorney general's (AG) office. The AG's office decided to initiate enforcement of a 20-year-old law that involves "fee-splitting" between the physician and the billing company when billing for Medicaid services. The Medicaid Fraud Control Unit (MFCU) has been conducting audits to determine if individual physicians have violated New York law by entering into a percentage-based compensation contract with a billing company, which they consider to be fee splitting.

The MFCU letter states:

Volume 16, Number 3, of the Medicaid Update March 2001, titled, "A Message for Providers Using Service Agents" (Service Bureaus/Billing Services) states in part: Billing agents are prohibited from charging Medicaid providers a percentage of the amount claimed or collected. In addition, such payment arrangements, when entered into by a physician, may violate the Education Law and State Education Department's regulations on unlawful fee-splitting.

The NYSSA has reached out to many different individuals (MSSNY legal, socioeconomic and legislative staff; David Adelson, Esq., the NYSSA's legal counsel; Bob Reid, the NYSSA lobbyist; the NYSSA leadership; and members of the Socioeconomic Committee, etc.) in an effort to determine why Mr. Schneiderman's office is suddenly pursuing this. Everyone is very surprised by this new initiative and the fact that no education or warning was provided in advance of this effort.

MSSNY had reached out to the AG's office. They were informed that letters were sent to physicians in the central NY and Adirondack area. The AG's staff could not advise MSSNY on the full extent of their investigation, but they mentioned that this investigation

might be expanded. MSSNY also urged the AG's staff that there should be some education before any of these recovery actions take place. So far that request has not been granted.

What should you do? It is vital to reach out to your billing company/practice management company immediately to find out if they have already been contacted by the AG's office regarding your billing records. That will be a clue as to whether or not you may be about to receive a similar letter from the AG. Next, it is recommended that you find an alternative method to reimburse your billing company for their services - one that is not based on fee splitting, but, instead, on time or a flat fee.