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Lewis E. Melahn
Director

BULLETIN NO. 91-06

TO: MEDICARE SUPPLEMENT INSURERS
FROM: LEWIS E. MELAHN, DIRECTOR OF INSURANCE *L. E. Melahn*
DATE: NOVEMBER 4, 1991
RE: PHYSICIAN'S LIMITING CHARGE -- MEDICARE BENEFICIARIES

The Insurance Department recently has become aware that some insurers are failing to meet their obligations to Medicare beneficiaries under Medicare supplement insurance contracts in the area of excess physician charges (sometimes called balance billing).

RESCINDED AND INOPERATIVE

Many Medicare supplement insurance policies provide coverage for some or all of the difference between the amount Medicare recognizes as allowable and the amount the physician actually bills the patient. In the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989), Congress established new limits on physician balance billing in conjunction with Medicare physician payment reform, called "Limiting Charges." These charge limitations phase-in between 1991 and 1993. In 1991, the Limiting Charge is calculated separately for each physician for each service. By 1993, when the Medicare fee schedule will be in effect, the Limiting Charge will be more easily calculable as a specified percentage in excess of the amount determined by the schedule.

Unfortunately, some insurers are attempting to restrict their liability for excess charges through erroneous interpretations of the new Medicare charge limitations. The following is a list of practices in this area that the Department has determined to be improper:

- Limiting payments to the insured by capping reimbursement at 125% or 140% of the "Medicare approved amount" shown on the Explanation of Medicare Benefits ("EOMB").
- Limiting payment to the insured on the basis that the insured is not legally obligated to pay more than the Limiting Charge amount to the physician.