

TO
Chip HartJUL - 170 -
8178**HORIZON: Modifier 25 & 59 Violations; Dispute Filed**

Today, MSNJ filed a compliance dispute against Horizon alleging multiple violations of the national class-action settlement agreement concerning modifiers 25 and 59. This compliance dispute is based, in part, upon a changed payment policy announced in a letter dated February 2010 to Participating Physicians from Horizon. The letter announces a change in claims processing editing systems that will become effective on May 17, 2010, and will recognize services submitted with a variety of modifiers as "nonstandard" and "not performed" or pay for the services at significantly discounted amounts.

The Blue Cross Blue Shield settlement agreement required Horizon to post on its web site the **limited number of finite code combinations** not appropriately reported together for separate payment of modifiers 25 and 59. Horizon has not posted this list. Instead of publishing the limited list, Horizon has announced an across-the-board policy of recognizing modifiers 25 and 59 appended procedures as "nonstandard."

In addition, this month Horizon initiated a formal chart and claim audit review of some physicians' services submitted with a modifier 25 asserting over-utilization, without first having provided notice of the limited number of finite code combinations not appropriately reported together for separate payment of modifier 25. We have requested that Horizon cease these audits until it has first complied with the settlement agreement's notice requirement by posting the limited list.

We also assert that Horizon has violated paragraph 7.20 (c)(ii) by announcing that it will modify its claims editing system on May 17, 2010 to treat services appended with a modifier 25 as either "not performed" or "that the service in question was performed in conjunction with another service or procedure" and be paid at a discount, rather than being paid separately as required by the settlement agreement. Horizon was obligated to modify its claims editing system on October 21, 2008 to recognize evaluation and management codes that are appropriately appended with a modifier 25 as separately payable and not at a discount.

We allege a similar violation with respect to paragraph 7.20 (f) of the settlement agreement which applies to distinct or independent services appended with modifier 59.

Our thanks to those members who alerted us immediately to the February audit letter and the February payment policy letter. Please review MSNJ's compliance dispute which will be posted on our web site soon. If you believe that you have an additional violation, please write to info@msnj.org. Put "Horizon Compliance Dispute" in the subject line or call Melinda Martinson, MSNJ, Senior Manager, Physician Practice Advocacy, at (609) 896 1766, ext. 276

CHESTNUT RIDGE PEDIATRIC ASSOCIATES, P.A.
A. BENSTOCK, MD / I. BERKOWITZ, MD
M. MANDEL, MD / J. STOLLER, MD
S. ROSENZWEIG, MD / A. BLOOMFIELD, MD
M. MAYER, MD
596 CHESTNUT RIDGE ROAD
WOODCLIFF LAKE, NJ 07677