

THE HEARTBEAT OSCA NEWSLETTER

APRIL 2023

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PROGRAM STARTING IN
AUGUST 2023**

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MEMBER Q&A WHAT DO I DO IF I'M
SUBPOENAED?**

MEDICAID BILLING UPDATE



Since the effective date of 6/13/2022 coverage of E/M services, the OSCA has been working with Ohio Department of Medicaid (ODM) and the managed care plans on proper implementation and coverage of E/M services. One of the final issues that we have been reporting on to OSCA members was a PTP NCCI edit that was causing E/M services to deny when performed with a CMT service. ODM acknowledged that when billed properly, both services should be reimbursed, however a configuration issue was preventing that.

On August 12, ODM provided the following update that was shared with OSCA members, "In order to pay for an E&M service and a spinal manipulation service on the same date of service, ODM must align its proprietary Claim Check edit with the national NCCI PTP edit. The national NCCI PTP edit allows a modifier override to allow both procedures to pay. After the systems work is complete, when an E&M service and a spinal manipulation service are rendered on the same date of service, providers will need to add modifier 25 to the E&M service in order to bypass the NCCI PTP edit."

Although ODM originally anticipated a resolution on 9/13/2022 and 2/1/2023, with the transition into the Next Gen system, both of those dates were missed. The OSCA continued to work with ODM and its policy team on this resolution. In the March heartbeat we reported that "the configuration fixes had been approved by leadership and should be implemented and completed in the near future."

The OSCA is happy to report that as of today, 4/7/2023, the ODM configuration issue causing E/Ms to deny when performed on the same date as a CMT service has been resolved.

WHAT DOES THIS MEAN FOR YOU?

You should expect payment for these services going forward when performed together.

When performing an E/M and CMT service on the same date of service, append the -25 modifier to the E/M code, when appropriate. Always make sure medical necessity and documentation is sufficient to support both services.

WHAT ABOUT PREVIOUSLY DENIED CLAIMS?

ODM has confirmed that they are doing a systems scrub for all properly billed but incorrectly denied E/M claims from 6/13/2022 to current. These claims will be automatically reprocessed for payment. If you don't see payment of these claims within 30 days, please reach out to the OSCA for assistance.

The OSCA is proud to fight for and work on these and other issues for our members and all Ohio DCs.

FOR IMMEDIATE RELEASE

March 29, 2023

Contact: Ohio State Chiropractic Association
Brandy Spaulding, DC 614-229-5290

Legislation Introduced to Improve Access to Chiropractic, Occupational and Physical Therapy Services by Limiting Patient Cost-Sharing Requirements

Representatives Jeff LaRe and Monica Robb-Blasdel today introduced House Bill No. 141, that seeks to prohibit health benefit plans from imposing excessive cost-sharing requirements on chiropractic, occupational and physical therapy services.

Under this legislation, a health benefit plan cannot impose patient cost-sharing requirements on these services that are greater than the cost-sharing for an office visit to a primary care physician or osteopathic physician. This measure aims to ensure that patients have access to essential non-pharmacological services without increased financial burden.

In addition, the bill requires health plan issuers to clearly state on their website and all relevant literature that coverage for chiropractic, occupational and physical therapy is available, along with any limitations that may apply. This provision aims to promote transparency and ensure that patients are aware of the coverage available to them.

“Chiropractic, occupational and physical therapy are crucial healthcare services that can significantly improve patients’ quality of life. However, the high cost-sharing requirements often make it difficult for patients to utilize these services. This bill aims to address this issue and ensure that patients have access to these essential services”, said Dr. Brandy Spaulding, Executive Director of the Ohio State Chiropractic Association.

NEW BENEFIT FOR OUR MEMBERS

ACCESS TO REQUIRED EMPLOYER POSTERS



State and federal laws require all employers to display employment posters in their offices that cover several Ohio and national employment laws. As an OSCA member benefit, we provide a summary of what each poster is and where it should be displayed in addition to free, downloadable versions of all required posters.

[CLICK HERE TO VIEW AND DOWNLOAD THESE POSTERS](#)

BENEFITS FOR OUR MEMBERS



WORKERS' COMPENSATION MCO OPEN ENROLLMENT MAY 1 – MAY 26, 2023

Your managed care organization (MCO) helps you file and manage claims and ensures injured workers receive the quality medical care they deserve. Your MCO also helps facilitate a quick and safe return to work, which benefits your company and your workforce.

To explain your options and help you make the best choice for your employees, BWC has produced an **MCO Selection Guide** which is available on www.bwc.ohio.gov.

If you have a good relationship with your MCO and you are satisfied with the service it provides, you don't need to do anything during the 2023 open enrollment period.

However, if you want to select a new MCO, you may do so between 7:30 a.m., May 1 and 5:30 p.m., May 26.

OSCA WORKERS' COMPENSATION MEMBER DISCOUNT GROUP

OSCA members can save up to 53% on your Ohio BWC premiums for 2024 by partnering with Compensation Solutions Inc. Not only will you save money, but you will have a dedicated contact to assist with all your Ohio BWC claim and policy needs.

To access this member benefit and get started, contact Tony Canovi at 614.572.3782 or via email tcanovi@compensation-solutions.com

[CLICK HERE TO DOWNLOAD THE MCO SIGN UP GUIDE](#)



MEMBERS Q&A CORNER

Q: WHAT DO I NEED TO KNOW IF GET SUBPOENAED IN A CIVIL PERSONAL INJURY LAWSUIT?



A: So, you've been subpoenaed. You know you have to follow the law, but which laws? You're bound by chiropractor-patient privilege, HIPAA, and possibly others. However, the subpoena says that if you fail to testify you could be held in contempt. **So, what do you do?**

WHAT IS A SUBPOENA?

First it is helpful to know what a subpoena is. A subpoena is a call for testimony or records, and they can come from many sources like law enforcement officers, attorneys, court clerks, judges, and administrative agencies.

WILL YOU GET PAID AND DO YOU HAVE TO COMPLY?

You will not get paid more than \$12.00 for your time testifying in court or at a deposition and up to 50.5 cents per mile for travel, if anything at all.¹ You may have heard of other chiropractors getting paid thousands to testify. However, those chiropractors are testifying as experts. If you have been subpoenaed regarding one of your patients then you will be testifying as a lay witness, and your role is to help establish the facts about the patient's chart and its accuracy. This is why you will only receive the statutory maximum amount for lay witnesses if anything at all for your time. Although you will likely not get paid, you are still required to comply with the subpoena under penalty of criminal fines (contempt of court) if the subpoena is properly issued.

The rest of this article will cover a few types of subpoenas and what you need to do to comply with them continued on the next page.

¹ O.R.C. 2335.06



DETERMINE WHICH LAWS APPLY TO YOU

The first step to take after receiving a subpoena is to understand what the subpoena is for and who issued it. This will tell you which laws apply to your response. It is very likely that any subpoena you receive will be issued in a civil case, which applies to injuries that are the result of car accidents, slip and falls, or other personal injury claims. Subpoenas can be issued by judges, attorneys, administrative agencies, and law enforcement officers.

HIPAA

HIPAA has an exception for disclosure of patient health information if you receive a subpoena and it is signed by a judge. If the subpoena is not signed by a judge,² but is signed by a clerk of court or law enforcement, you'll want to check if your patient is a party to the lawsuit (i.e. a plaintiff or defendant). If they are, then the patient is on notice of the potential disclosure as required by HIPAA and you may disclose the requested information after you confirm that the patient has no objections to the subpoena.³ If you are able to disclose patient health information based on this analysis, you are required to disclose only the minimum necessary information to respond to the subpoena. However, even if you can disclose protected health information under HIPAA, you will need to continue to check if you may disclose under Chiropractor-patient privilege laws in Ohio.

OHIO CHIROPRACTOR-PATIENT PRIVILEGE

In Ohio a chiropractor may not disclose communications, labs, charts, or records obtained from the patient in order to receive treatment, unless an exception applies.⁴ The main exceptions are for malpractice claims against you as the chiropractor and for emergency management workers who suffered injuries on the job.⁵ It is not likely that either of these exceptions will apply, especially if the case you've been subpoenaed for is a personal injury case. If no exceptions apply, Ohio courts have held that you can't disclose privileged information without the patient's express consent.⁶ So, in order to respond to the subpoena you will need to get the patient to sign a consent form. If a patient does not willingly give consent to you, the court may order them to "give consent" and allow disclosure of information that is causally or historically related to the injuries at issue in the civil action. If this occurs, you may disclose the information requested in the subpoena.⁷

Best practice is to always get a consent form from the patient that covers HIPAA and Ohio privilege laws upon receipt of a subpoena. Additionally, just because you may disclose information about the injuries related to the claim, does not mean you may disclose all the patient's medical information. If your charts contain sensitive information like social security numbers, addresses, date of birth, sexual status or orientation, HIV status, etc. you should redact that information.

² 45 CFR 164.512(e)(1)(i)

³ 45 CFR 164.512(e)(1)(ii)

⁴ O. R. C. 2317.02(J)(1)

⁵ O. R. C. 2317.02(J)

⁶ O. R. C. 2317.02(J)(1)

⁷ Mieczkowski v. King, 2001-Ohio-3332

CONTINUED

WHAT TO DO IF YOU CAN'T DISCLOSE

If you don't meet the requirements to be able to disclose, call and email the person that issued the subpoena and state that you object to the subpoena,⁸ and explain why you may not release the information. If you need consent from the patient, you should explain what you need to the issuer, usually attorneys in personal injury cases will have consents on file for the patient. If the Court responds with an Order overruling your objections, then you may be able to respond

In sum, you cannot ignore subpoenas, even if you do not feel that you are able to respond. This article covers the basic topics related to responding to subpoenas in civil cases but there may be other laws that apply as well depending on the information requested and the type of case. If you have questions about whether or not you can respond to any court documents you receive, reach out to an attorney who is familiar with healthcare privacy laws and Ohio civil procedure.

This article does not constitute legal advice. Please consult with an attorney for any specific legal questions related to subpoenas.

⁸Ohio Civ. R. 45

⁹45 CFR 164.512(e)(1)(i)

ARTICLE PROVIDED BY

Kelly Jena, JD and Ashley Watson, JD of Brennan, Manna & Diamond, LLC

BMD is a full-service law firm serving entrepreneurs and businesses in a wide variety of industries. True to the entrepreneurial spirit, we appreciate the challenges and opportunities faced by businesses in today's ever evolving marketplace.

Our professionals collaborate seamlessly across practice areas and geographies to provide our clients with exceptional service, sophisticated advice and creative and practical solutions that reflect a deep understanding of the legal landscape, market trends and our clients' businesses and objectives.

Listen. Solve. Empower. is not just a tagline, it is the cornerstone of BMD's success. <https://www.bmdllc.com>

AIM SPECIALTY HEALTH TRANSITIONS TO A NEW NAME Carelon Medical Benefits Management

Over the past couple of years, providers who accept Anthem BC/BS have become familiar with AIM. AIM provides prior authorization services related to PT, OT and ST benefits on some Anthem plans. Recently, AIM has transitioned to a new name and is now known as Carelon.

Anthem has stated that the name change will not impact the way that AIM works with health plans or providers. For a FAQ document on the transition, click here.

OTHER TIPS TO REMEMBER RELATED TO AIM/CARELON.

-If you accept Anthem and you plan to render PT services, in addition to a benefit verification, you want to visit the provider portal to determine if a prior authorization (PA) is required. This should be repeated any time the plan renews, calendar year or fiscal year, depending on the plan.

-If a PA is required, you must do so within 72 hours of the service being rendered. If you go beyond that timeframe, you have missed the opportunity for a PA and there is a different pathway to attempt a retro-authorization.

-Keep in mind, 97014 and 97012 do not meet the internal criteria for medical necessity and therefore are considered non-covered services. If you plan to render these services, make sure to notify your patients of non-coverage in advance of receiving the service so that the patient may be financially responsible for the service.

If your office needs additional assistance with AIM/Carelon questions, please reach out to the OSCA office.

Continuing Education Opportunities

In person and Online

Ohio DC licenses are active for a 2 year period requiring a biennium renewal. We are currently in the second year of the 2 year timeframe. License renewal will open January 2024 with a deadline of March 31, 2024. Within that period, DCs must earn a total of 36 hours of continuing education from board approved topics. The OSCA has a line up of fantastic in-person and online learning events between now and the end of the year. Don't wait until the last minute. Mark your calendars now and plan to join us for some impactful CE opportunities!

MAY 3, 2023

Assessment of Primitive/Retained Reflexes w. Dr. Matthew Worth

The retention of primitive reflexes in a pediatric and adult population can contribute to a myriad of conditions. This hands-on workshop introduces the science of primitive reflexes, as well as strategies for assessing and remediating primitive reflexes.



REGISTER FOR THIS LUNCH & LEARN NOW!



2023 EVENTS SCHEDULE

The OSCA has several in person and live webinars currently scheduled and several **in the works** for the upcoming year.

CLICK HERE

To visit the OSCA events page for more info or to register for an event.

LUNCH AND LEARN WEBINARS

12-1pm on the 1st Wednesday of the month

3
MAY

Assessment of Primitive/Retained Reflexes
featuring Dr. Matthew Worth

6
SEPT

Documenting and Tracking Treatment Progress,
featuring Dr. Gregg Friedman

7
JUNE

Documenting the E/M Codes,
featuring Dr. Gregg Friedman

6-8
OCT

Annual Convention –
Hilton at Polaris
Columbus Ohio

5
JULY

No lunch & learn
Happy Independence Day!

1
NOV

Pain Reset - Neuroscience as a Chronic Pain Solution
featuring Dr. Freddy Garcia

2
AUG

Comprehensive Migraine Management
featuring Dr. Adam Harcourt

6
DEC

How To Properly Document Treatment Codes
featuring Dr. Gregg Friedman

HELLO
my name is



2023 ANNUAL CONVENTION

October 6-8, 2023 / Hilton at Polaris Columbus Ohio

We hope you're looking forward to this year's events! There will be many opportunities for learning, inspiration and connecting with your friends in the profession. Speakers and educational tracks will be announced soon. Mark your calendars now and stay tuned for updates!



IN PERSON TRI-CITY TOUR

**Compliance and HIPAA Updates
You Need to Know 2023**

with Dr. Ty the Compliance Guy

May 10th – Akron/Canton • May 11th – Youngstown • May 13- Columbus



ACUPUNCTURE PROGRAM

We have received so many requests for Acupuncture and will be starting another program this year. Acupuncture Basic 100 will kick off August 5, 2023 in Columbus, Ohio. All 100 hours will be in person and will be broken down into 4 weekends / 25 hours.

Acupuncture Advanced 200 will kick off in January and will consist of 2 in person weekends plus 50 hours of online instruction.

Legislation passed at the end of 2022 reducing the number of hours required to obtain your acupuncture certificate from 300 to 200. This change goes into effect April 2023. Those still wishing to earn 300 hours will have the opportunity to do so via additional online learning opportunities through the OSCA. For more information and to register for upcoming courses, click here.

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2023 PROGRAM DATES

AUG 4-6

SEPT 8-10

OCT 6-8

DEC 1-3



BEST PRACTICE MANAGEMENT FOR RESOLVING NECK PAIN & HEADACHES WITH DR. TIM BERTELSMAN

**5-6
AUGUST**

This practical and entertaining presentation will review the most clinically relevant assessments and treatments for the most common causes of neck and head pain.

Where: Location: Hilton Garden Inn, Columbus Easton, Columbus, Ohio