

## Third-Party Payments

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*You can't always get what you want.*

-The Rolling Stones

### **Overview**

A "third-party payment" (TPP) is where someone/some entity, other than the client, pays for the client's treatment. More often than not, it will be a workers' compensation fund, the defendant's attorney in a motor vehicle incident, or an insurance company in a personal injury case.

### **Workers' Compensation**

We will look first at workers' compensation, or the TPP systems that handle treatment for injuries that occur on the job. These include state systems (for subscribing employers and state employees), county systems, and federal systems, as well as private corporate systems. In most cases necessitating treatment, it is held as common wisdom to allow the injured person to choose his own practitioner. The thinking behind this is that there will be a quicker response to treatment.

Laws and procedures will vary state by state, and differ again for federal cases. Providers must generally apply to the system and have an assigned provider number before beginning TPP work in these systems. Further, pre-approval to treat may be required, and payment will usually be determined by a fee schedule of allowable amounts, covering sessions of no more than sixty minutes. The information you need to start with should be readily available at the relevant Department of Labor website. This author has been paid for services by workers' compensation systems in Pennsylvania, New York, and California, as well as Arizona.

In Arizona, the state where I work, the first person to treat the client, after the emergency room physicians or the first responders, is

designated the treating physician/practitioner. If a client comes to you who is already seeing a physician, you will have to get that provider's permission and referral as well as that of the workers' compensation agency that you will be dealing with for payment. Cumbersome, but doable. Because of the state's large population of Native Americans and their reluctance to get treatment from traditional allopathic physicians, nontraditional practitioners are often chosen. As a result, more alternative and complementary practitioners are given provider numbers with little bureaucratic complications. Workshops are given to all interested parties to bring them up to speed regarding compliance with forms and language particulars. Most of these practical aspects apply to most other states systems as well.

In dealing with the federal workers' compensation system (administered by the Department of Labor and mostly concerning benefits for federal employees), the administrative caseworker nurse will refer the client to you at the client's request. After becoming an approved provider, the process is pretty similar to most TPP processes: submit appropriate billing and treatment notes. With the Feds, payment will be rendered through direct deposits into your bank account, and will again be determined by a fee schedule.

There is a special category of workers' compensation cases called "long-term care awards" or "lifetime care awards." These cases come about when a workers' compensation hearing officer determines after the client's attorney has presented the case that the specific practitioner should be awarded special consideration in this case to treat the client on a long-term or permanent basis for a given frequency. These cases have been in the system for a significant amount of time, usually years, and the record shows that the practitioner's work is the most efficacious treatment available for the client's long-term condition. This decision is usually based on several factors – primarily long-term intractable pain, historical levels of pain medications contraindicated for long-term use due to organ stress/risk for failure, or the practitioner's work being the most cost-effective long-term care for the patient given the circumstances of the case.

## **Personal Injury**

Personal injury (PI) cases are another form of TPP. These are cases where someone has suffered an injury that was not work related. Most common are "slip-and-fall" and motor-vehicle-related injuries.

Slip-and-fall type injury usually involves a private party being injured, somehow, through no fault of his/her own in/at a business setting. The company's liability insurance company usually pays the case pretty quickly unless some sort of fraud is suspected. A simple receipt will usually suffice for you to be paid.

Motor vehicle accidents (MVAs) are the bulk of PI cases. It is important to investigate the particulars of these cases carefully. Whiplash Injuries (Forman and Croft, 1988) and Motor Vehicle Collision Injuries (Nordhoff, 1996) as well as others will be very helpful references.

It is very important to evaluate all PI/MVA cases for any evidence of misrepresentation of the facts of the incident and/or the extent and type of the injuries claimed to be sustained. Medical reports, tests and imaging reports, as well as police accident reports all provide information that will help you through this maze. In most cases where fraud is suspected, attorneys will be involved, and if you are to be compensated it will often take a year or two for these cases to be settled. (It is very rare for workers' compensation cases to involve fraud as they are usually well-investigated by agents of the company involved.) Attorneys are not usually involved in TPP cases unless the bills are not getting paid by the insurance company. If you are getting paid and the client retains an attorney, the bills may stop being paid until the case is settled. Most insurance is for the state's required minimum. If you have exhausted these funds, more often than not, there were broken bones or blood loss involved in the case. Often, "pain and suffering" will become an issue in settling the case. Most of the time these considerations are evident at the onset of the case and its evaluation. These cases will more often than not involve attorneys, but this is not the bulk of our cases.

### **What Care Does TPP Cover?**

TPP is very rarely made for palliative care. These entities pay for actual, measurable, positive change such as improvement in the

client's ability to perform activities of daily living, increased range of motion, functional restoration, reduced need for prescription medication, and reduced need for allopathic medical intervention. These changes must be documented throughout the treatment duration. Documentation starts with the client completing a case history form from your office. After reviewing this form with the client at his/her initial office visit, a relevant physical examination is performed and the results recorded.

Compensation is paid, as a matter of course in Arizona, for brief reexaminations to note and measure changes made as a result of treatment. This is the only objective tool to determine if your case plan is appropriate or if the plan needs to be modified. When there is a lack of expected progress made with a given treatment plan, a modified treatment course is then detailed. SOAP notes are written on each treatment appointment and a reexamination is performed at the end of the course of treatment relevant to the case.

## **Billing**

When billing for TTP cases, treatment notes will generally be requested (you will need your client's signed authorization to release the notes). The SOAP format is standard. (A web search can quickly bring the reader up to speed.) A variation in this format is where a "Treatment" section is added. This is especially valuable for complementary and alternative practices whose modalities may not be as well known in the industry as traditional treatments.

In billing, the standard is the Health Insurance Claim Form or HCFA-1500 format used currently. (This form and instructions are also available on the internet or from office supply stores.) To use this form, the reader will need to familiarize him/herself with the Current Procedural Terminology or CPT codes as well as the International Statistical Classification of Diseases and Related Health Problems or ICD-9 codes. (Both of these code books come with instructions and are available for free on the web.) The CPT code helps describe what you are doing to help the client. The ICD-9 helps describe why you are doing what you are doing.

Only physicians may diagnose. The emergency room or previous physicians will have rendered one or more diagnoses that practitioners can work with. In many cases, practitioners can simply record the client's complaint and give the ICD-9 code that best describes it; for example, neck pain (cervicalgia) 723.1 or low back pain (lumbago) 724.2. (Commonly accepted lay terms are not seen as clinically derived diagnoses and have always been accepted in my filings. For example, my coding would read: 723.1 Neck Pain or 724.2 Low Back Pain as described by the client.)

You will do an initial examination, usually moderate in duration, billing under CPT code 97001 or 97002 for follow-up examinations. Structural integration is best described as Manual Therapy (CPT code is 97140) and is measured in fifteen-minute increments for a maximum of four units (one hour). The fees for these services are based on what is usual, customary, and reasonable for your individual locale. (Some third parties or states may not accept a Rolfer using some or all of these codes. In some cases, Rolfers may only bill under 97124, the CPT code for massage therapy. Again, consult with the third party or with an experienced practitioner in your area if you are new to TTP.)

## **Finances**

Workers' compensation cases and cases where the "Med Pay" component of the client's automobile insurance policy is in effect are paid upon presentation of appropriate billing forms and treatment notes in the traditional SOAP format. It is common to include a "Treatment" section in the daily notes delineating just what treatment was rendered.

If the client did not have Med Pay, then the other party's insurance company will receive the billing and the treatment notes. In this case, payment is rendered after all treatment has been completed by all practitioners and physicians and the client is released from further care.

If there are contested issues in the case, then the client, his/her attorney, and the defendant's attorney receive the billing and notes.

Payment is rendered after the case is settled. Frequently cases are settled without the added expense of a court hearing.

### **Fees for Service**

If your client has chosen the "Med Pay" option on his/her auto insurance policy, you can be paid as you bill. When the incident is serious but there are "no broken bones and no blood," usually the case is settled for the limits of the defendant's policy, which is usually the minimum required by state law.

You will also need to stay on top of the amount of money paid out on the case. The client can usually keep you in the loop as to how many and what type of practitioner is involved in the case. If you are the sole practitioner, there will be little to be concerned about policy limits. There is little chance that you will run up \$15,000 of treatments for a "no blood/no broken bones" case even with multiple clients in the same vehicle.

If the client has a number of practitioners involved in the case, be in good conversation with your client and approximate moneys spent on the case to be safe that the policy limits have not been exceeded. (The insurance company will not give this information to you, only to the client.) One way to attempt to avoid these situations is to ask the client to make partial payments on each visit. There are many benefits to this practice in all PI cases. The remaining balance for the treatment visits will be billed to the insurance company.

There are other ways, as well, to handle payment for services with PI cases. A medical lien or letter of protection can be drawn up by commercial entities for a nominal fee and filed with the county recorder's office. This process does not guarantee payment in a contested case. If your client loses the case, there is no money for anyone on your side: client, attorney, or practitioners. It does, however protect you from the hassles that are inevitable when dealing with attorneys who may ask you to reduce the amount you are owed for a variety of reasons.

When a PI case goes into litigation, the time between treatment and funding often increases to two to three years. In litigated cases, the client's attorney generally asks for an amount calculated as three

times the loss (i.e., the cost of treatment, physical losses, and time off work). In settlement, one third goes to the client, one third to the practitioners, and the remaining third to the attorney. In working the case to get more money for the “pain and suffering” of the client, attorneys are willing to cut their share by a percentage and often ask that the practitioners do the same. The problem is that what the attorney is cutting is often bloated billable hours, while practitioners are asked to reduce their fees earned for direct services to the patient (i.e., time spent bent over the treatment table).

Also note that both attorney teams as well as the defendant’s insurance company have a right to access all of your treatment and billing records. All of these records must be identical. All parties get identical copies of the same information. (When records are requested, you can charge for the cost of copying and mailing them.)

You do not have to agree to an attorney’s request that you reduce your share, but, you do need to establish a working relationship with all parties involved in the case for a more satisfactory outcome for all involved. You do not know when you will be working with this attorney again on another case. You want to make it as possible as realistic for the client to come back to you for more treatment after the legal case has been resolved. One way around this other than flat denial – I never flatly deny working with other team members: not professional ethics in my opinion – and to also be compensated for having to wait to be paid for your services is to require clients in PI cases to sign an "account service fee agreement" where they agree to pay out of the settlement a 1½% monthly fee on monies due, compounded monthly until the case is settled. This fee is compensation for the extra paper work, phone calls, and accounting necessary in these cases. In a year this fee will add up to 18%. With this money you have some room to negotiate with the attorney. It is strongly suggested that you do not negotiate with your fees for direct client services. Remember that only banks and lending agencies can charge interest. The account service fee is the amount of money needed for the treating office to keep the case open by office staff, compile notes, coordinate treatment with other practitioners, handle attorney phone/correspondence time, and manage accounting for the case.

## **Treatment Overview**

It is beyond the scope of this paper to address how to manage the client's more complete recovery through the blending of formal structural integration work and direct and specific pain-management efforts. That being said, some overview of the matter is offered.

A functional understanding of the client's overall need is paramount throughout the duration of the case. You have been invited into the case because of the client's pain and suffering, but at some point in the course of treatment overall progress will be limited by the lack of order in the client's structure. It will become necessary to begin a reciprocating strategy where you begin to integrate establishing order in the client's structure with corrective and restorative pain-management efforts. Your efforts should not be palliative nor aesthetically oriented.

It is important to remember what you are being paid for in TPP cases: issues that were the direct result of the original insulting incident. It will always be a judgment call as to where to draw a finite line in this vein of thought, but remember that the further you move into formal structural integration, the further away you move from direct pain management. This will increase the probability that you will unnecessarily complicate the case with your philosophy, and this will reduce the chances of a more favorable judgment.

## **Pitfalls**

There is one major pitfall in a managing TPP cases: malingering. Sometimes, the client can get very comfortable being paid to stay home from work and/or receive treatment without having to pay for it. This may mean that the client was not injured to the extent that he/she initially reported. It could be that the client has recovered faster than anticipated. It also could be that the case as presented was fraudulent from early on – though your case history taking and initial physical examination will usually ferret out cases of malingering.

This situation provides a conundrum: in order to have much success at all in treating clients in these types of cases, you must first believe in what they say. The pain is genuine. The stated losses are real. The amount of suffering experienced is the difficult parameter to deal with

in these cases. Once you start doubting your client's word, you have started losing the safe vessel for treatment. How to avoid this pitfall? Training, treatment, and documentation is the answer. Learning how to test for the presence of pain generators, treat them efficaciously, test for the progress in treatment, and documentation make the difference in understanding your case. They can also make the difference between getting paid and not.

MVAs that have the fewest complications are "rear-end motor vehicle accidents" (REMVAs), where the potential client ("target" in the MVA) is a licensed and insured driver who was legally stopped and wearing a seat/lap belt at the time of impact, and where the "bullet" vehicle driver was also insured at the time of the incident. It also helps the case if the other driver was cited as responsible for the incident. If these cases are selected carefully and properly secured, treatment fee recovery should run near 100%.

Another pitfall when the client is not paying for treatment is that it may be hard for him/her to see the true benefit of the treatments. To help the client understand progress, I take measurements during the initial examination and during re-exams, and share this with the client. The felt sense of the client's stated progress will be solicited and reported as well. We are monitoring progress in subjective reporting as well as objective findings.

## **Summary**

Why get involved in TPP work at all? There are many reasons. First of all, you will be offering your unique services to a group of people who might not be able to afford them. (Most of our clients pay for our services with discretionary moneys. It is a select group who has that money available.) Second, it will expose you and your practice to another level of professionalism. Often, you will be coordinating treatments with other professionals and providers in the community. You will be dealing with companies and agencies regarding care and compensation. You will become more educated as to the workings of the healthcare world of which you are already a member. Through this, you will be educating a large group of professionals about your life's work. You will be creating a professional network for increased referrals and providing a matchless set of services sorely needed in

the healthcare field. Finally, you will be providing a component of help and healing to people in need.

Clay Cox received his basic and advanced Rolfing training from Jan Sultan, Peter Melchior, and Emmett Hutchins. He has been practicing Rolfing SI since 1979. He subsequently trained with Mary Burmeister, John Upledger, and Jean-Pierre Barral.

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