

The Sliding Fee Scale

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... A CPH insured and reader of this Bulletin called me to ask some questions about “sliding fee scales.” I told her that I would write about the subject in the Avoiding Liability Bulletin since the questions raised are various and sometimes troublesome for practitioners. State law may or may not directly address this issue, and if does, the law may vary from state to state and by profession. I write about this subject and express my views for the private practitioner rather than for nonprofit and charitable corporations, health facilities or similar agencies or organizations.

My view is that a “sliding fee scale” is unnecessary, unwise and problematic. Most sliding fee scales used by nonprofits and other entities base the fee on the financial condition of the patient. In order to properly implement such a policy, entities must ask for certain information and perhaps supporting documentation, like tax returns. Most private practitioners do not want to get into that kind of detail in their practices. Psychotherapists usually establish fees that they are comfortable charging and stay with those fees until they decide to raise their fees. Physicians and other practitioners likewise establish a “usual and customary fee” and typically do not change their fee for different patients. If the patient can’t afford the fee, he or she can be referred elsewhere.

It is important to have a usual and customary fee for a number of reasons. First, patients of a particular therapist may know one another and may compare notes. If one patient is being charged more than the other, this can cause problems. Having a set fee lets patients know what you think your time and ability are worth. Also, when dealing with insurers and other payers, a set fee provides consistency to your “profile.” It is said that insurers keep profiles on providers as to fees charged and other aspects of practice, and it is not unheard of for an insurer to raise a question with a provider as to why his or her fee appears to be higher than normal. This is an area where therapists and counselors get in trouble.

I have spoken with therapists who have raised their fees when they find out that the patients are covered by insurance. In fact, some have implemented an informal policy that sets the fee at, for instance, \$80 per hour, but if there is third party reimbursement, the fee becomes \$120. In my view, this is a risky and dangerous practice, and it may constitute insurance fraud. To those who have insisted upon using a “sliding fee scale” I have said – “make sure you always slide down – not up!” The therapist’s fee should not, in my view, be set with insurance coverage in mind, but rather, the therapist should decide upon the fee that he or she requires regardless of the source of payment. This latter approach seems to this writer to be much cleaner.

For those who do establish a set fee, this does not mean that exceptions can’t be made. Some practitioners decide to set aside a certain portion of their practice for low fee clients or perhaps will decide to see one or more clients for no fee – that is, “pro bono.” This kind of simple approach is encouraged in many professions and is easier to manage than the “sliding fee scale” approach.

Once the lower fee (or no fee) is established and implemented, it is in my view and experience wise to not raise the agreed upon fee (or the no fee arrangement) upon a change in circumstances. To do so invites disputes and difficulties.

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