

Ultrasound at \$59,490 is Outrage in Aetna Claim Against Doctors

By Peter Waldman

March 24 (Bloomberg) -- Aetna Inc. is suing six New Jersey doctors over medical bills it calls "unconscionable," including \$56,980 for a bedside consultation and \$59,490 for an ultrasound that typically costs \$74.

The lawsuits could help determine what pricing limits insurers can impose on "out-of-network" physicians who don't have contracts with health plans that spell out how much a service or procedure can cost.

One defendant billed \$30,000 for a Caesarean birth, and another raised his fee for seeing a critically ill patient in a hospital to \$9,000 in 2008 from \$500 the year before, the insurer alleges in the suits. The Caesarean price was more than 10 times the in-network amount Aetna quotes on its website.

"If these charges are accurate, consumers and purchasers should be outraged," said David Lansky, president of the San Francisco-based Pacific Business Group on Health, a coalition of health-insurance buyers that includes Chevron Corp., Walt Disney Co. and General Electric Co.

Lawyers for the doctors declined to comment on specific charges in the suits, and said their clients did nothing wrong.

The insurance industry is grappling with how to respond to out-of-network hospital physicians who realize they have pricing muscle, according to Arthur Leibowitz, M.D., Chief Medical Officer of Health Advocate, Inc., a Plymouth Meeting, Pennsylvania, insurance adviser.

"These doctors can charge whatever they want," Leibowitz said. "The challenge for the carriers is to come up with an agreeable, acceptable, unbiased judgment as to what a reasonable and customary reimbursement rate is."

AMA Lawsuits

Aetna tried in 2007 to impose caps on some out-of-network payments, prompting doctor complaints to the New Jersey Department of Banking and Insurance. The agency sided with the doctors, fined the company \$2.5 million, and ordered it to pay out-of-network practitioners enough so that patients wouldn't be asked to pay balances other than co-pays.

In 2009, Aetna, UnitedHealth Group Inc., Cigna Corp. and WellPoint Inc. were accused by the New York attorney general of underpaying out-of-network physicians by manipulating a database used to calculate payments. They paid a total of \$90 million in settlements without admitting wrongdoing. UnitedHealthcare agreed that year to pay \$350 million to settle a lawsuit by the American Medical Association over the same issues. Similar AMA lawsuits against Aetna, Cigna and Wellpoint are pending.

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Rare Glimpse

The Aetna lawsuits, filed in superior court in Camden, New Jersey, over the last eight months, allege the defendants violated New Jersey Board of Medical Examiners rules against excessive fees, and seek triple damages under state insurance- fraud laws against filing false or misleading claims.

The complaints provide a rare glimpse at the sums physicians earn from an insurer and the huge variations in what different doctors charge and receive for the same services.

Aetna reimbursed the defendants \$8.3 million in 2009, up from \$4.9 million in 2008, spokeswoman Cynthia Michener said, sometimes paying the full amount demanded and sometimes not. The insurer paid some of the large charges because of state regulations mandating timely payments and to prevent doctors from sending patients big bills, Michener said.

The Hartford, Connecticut-based company is looking at claims in other states for anomalies, said chief of litigation J. Edward Neugebauer. Aetna is the third largest U.S. health insurer, with 18.5 million members.

\$56,980 Consultation

The most detailed complaint is against Benyamin Hannallah, a cardiologist at Jersey City Medical Center. Hannallah charged \$59,490 for a heart ultrasound in April 2010 and was paid \$47,592, the suit says. Aetna reimburses in-network doctors \$74 for the procedure at Jersey City hospitals, Michener said.

Hannallah billed Aetna \$56,980 last July for a consultation with a patient who wasn't critically ill, a hospital visit that typically takes 25 minutes, according to the suit. The insurer refused coverage, and said Hannallah had asked for \$220 for this type of consultation in 2007.

In April 2010, Aetna said, Hannallah asked for \$54,600 for a heart catheterization, up from \$5,500 for the same procedure in 2007. When the insurer gave him \$2,000—a sum it deemed “usual and customary” for the procedure—Hannallah complained, and Aetna paid in full to prevent him from billing the patient for the remainder, Michener said.

The amount Hannallah requested for heart ultrasounds quadrupled between 2009 and 2010, and his price for cardiac- stress tests rose more than tenfold to \$15,850 between 2008 and 2010, Aetna's suit claims.

Healthy Profits

For an electrocardiogram, Aetna said it paid him \$5,500 in 2010, up from \$800 in 2008. The in-network fee listed on Aetna's website for EKGs in Jersey City is \$23.

Aetna said it paid Hannallah a total of \$3.2 million in 2008 and 2009, up from \$529,503 in the prior two-year period.

Robert Conroy, Hannallah's lawyer in Bridgewater, New Jersey, said the fees in Aetna's complaint are “false and/or misleading.” Some charges cited were pre-approved by the insurer, and some were negotiated between Hannallah and a third party representing Aetna, Conroy said.

Conroy said comparisons with some earlier rates are unfair because they represent fees when his client was an in-network doctor. Some of Hannallah's patients or their employers paid higher insurance premiums for the right to use out-of-network doctors, Conroy said.

Aetna, which collects more than enough premium and administrative revenue to earn healthy profits, is suing because it wants to make even more money, Conroy said. “How much did Aetna pay its CEO last year?” he asked. “How many lives did he save while feathering his nests?”

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'Unfounded' Countersuit

Aetna's net income rose 38 percent in 2010, to \$1.77 billion, or \$4.18 a share. Its revenue for the year fell 2 percent, to \$34 billion. The stock closed yesterday at \$35.49, up 6 cents, in New York Stock Exchange composite trading. Mark Rabson, a spokesman for Jersey City Medical Center, said it has "no knowledge" of what private physicians charge. He said Hannallah is credentialed with several area hospitals.

In its suit against Deepak Srinivasan, a cardiologist at Hackensack University Medical Center, the company claims he raised his fee for heart catheterizations to \$18,720 from \$3,000 between 2006 and 2007. Srinivasan's income from Aetna rose to \$2.5 million in 2008 from \$155,310 in 2006, the suit says.

Srinivasan filed a countersuit alleging that Aetna, by not paying him what it owes, violated U.S. and state laws governing group health plans and committed mail and wire fraud in its reimbursement practices. Aetna's Michener called Srinivasan's counterclaim "unfounded."

Caesarean Charge

"Our client is livid," said George Frino, an attorney in Teaneck, New Jersey, who represents Srinivasan. He said Srinivasan worked for a practice in 2006 that controlled his billings and that Aetna agreed to his fee schedule as a sole practitioner in 2007. "He can't comprehend how, after a four-year period without any complaints by Aetna, he gets served with this complaint—weeks after they paid him a five-figure check."

Another defendant at the Hackensack hospital, obstetrician-gynecologist Waleed Abdelghani, increased his charge for a Caesarean-section delivery to \$30,000 in 2009 from \$3,000 in 2008, the suit alleges. Aetna paid his full \$30,000 fee "numerous" times in 2009, said Michener, the company spokeswoman. In-network doctors in the area receive \$2,655 for the operation, according to the insurer's website. Abdelghani earned \$76,173 from Aetna in 2007, \$136,632 in 2008, \$1.4 million in 2009 and \$5.1 million in 2010, according to the company.

'No Merit'

The defendant's attorney, Charles Gormally of Roseland, New Jersey, disputed Aetna's figures and said the insurer paid Abdelghani's practice a total of \$5.8 million over a three-year period. The group billed Aetna nearly \$13 million over the three years, with some procedures not reimbursed at all, he said.

Gormally said many of the bills cited in the suit were paid after Aetna vetted them with an independent claims adjudicator.

The allegations don't take into account the economic factors that force out-of-network doctors to demand higher fees, such as the absence of referrals that in-network doctors get from insurers, Gormally said. A spokeswoman for the Hackensack hospital, Nancy Radwin, declined to comment.

Another defendant, Magdy Wahba, an internal medicine specialist at St. Joseph's Regional Medical Center in Paterson and St. Mary's Hospital in Passaic, raised his fee for 30 to 74 minutes of service to critically-ill hospital patients to \$9,000 in 2008 from \$500 in 2007, the suit claims. Medicare pays \$236 for the same type of consultation, according to the AMA website.

For a half-hour consultation with a non-critically ill patient, Wahba charged \$6,000 in 2008, up from \$250 in 2007, the suit says. The insurer said its total payments to Wahba grew to \$3.8 million in 2009 from \$309,446 in 2008.

Wahba's attorney, Vafa Sarmasti of Fairfield, New Jersey, said Aetna's claims "have no merit from a legal and factual standpoint" and that Aetna's reimbursements to Wahba were based on "fair, usual and customary rates" determined by Aetna, not Wahba. Spokeswomen Vanessa Warner of St. Mary's and Liz Asani of St. Joseph's declined to comment.