Health Care ALERT

Discounted Reimbursements By Government Payers Are Admissible To Prove The Reasonable Value of Medical Services In Indiana

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On October 21, 2016, the Indiana Supreme Court held that discounted reimbursements by government payers that are accepted as full payment of medical services rendered are a "probative, relevant measure of the reasonable value of the plaintiff's medical care that a factfinder should consider." *Mary K. Patchett v. Ashley N. Lee, 29S04-1610-CT-549.* In other words, discounted amounts that a health care provider accepts in satisfaction of the amount billed, regardless of whether the payer is a government insurer or a private insurer, can be used as evidence of the reasonable value of medical-services without running afoul of the Collateral-Source Statute, Indiana Code § 34-44-1 et seq. This approach is consistent with one goal of Indiana tort law – making injured parties whole.

In *Stanley v. Walker, 906 N.E.2d 852* (Ind. 2009), the Indiana Supreme Court determined that Indiana's collateral-source statute permits a defendant to introduce discounted reimbursements negotiated between a plaintiff's medical provider and his private insurer to evidence the reasonable value of medical services. In concluding that the rationale of *Stanley* applies to reimbursements made by government payers, the *Patchett* Court effectively eliminated any uncertainty about how parties prove disputed medical-services losses at trial: the plaintiff introduces evidence of the entire amount billed, which is almost never actually paid by the private or government insurer, and the defendant then introduces evidence of the discounted amount that a health care provider accepted in satisfaction of the amount billed.

Since the Supreme Court decided *Stanley* in 2009, six states have precluded the admission of reimbursements altogether, two states have concluded that only the discounted amount actually paid for medical services is admissible, and two states, now three including Indiana, have concluded that evidence of both the amount billed and the amount accepted is properly admitted as evidence of the reasonable value of medical-services. Not only is the hybrid approach that the Supreme Court first outlined in *Stanley* and reemphasized in *Patchett*, the fairest approach, it recognizes Indiana's "deep abiding faith in the jury system" by providing juries with all, not just some, of the relevant medical-services loss evidence and trusting that juries will get it right.

While the Supreme Court's opinion in *Patchett* will be viewed as a major victory for the defense bar, both the plaintiff bar and defense bar should rejoice in the fact that the opinion provides a clear roadmap to proving medical specials at trial. Additionally, certainty and clarity in the process of proving medical-services losses at trial will have a positive effect upstream – on earlier phases of the litigation including initial case assessments and settlement negotiations. Consequently, if medical-services losses may be a significant focus of a plaintiff's claim for damages, defendants would be wise to collect the pertinent medical bills and specific information regarding amounts billed and amounts paid, as early as possible in the litigation.

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