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# Business

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## Bundle of trouble

It's well known that managed care plans bundle codes as a way to cut reimbursements to physicians. What's less known is that physicians can do something about it.

STORY BY ROBERT KAZEL / ILLUSTRATION BY VICTORIA KANN

**W**HEN HE HEARS ABOUT DOCTORS glumly accepting the bundling of CPT codes by insurers as an inevitable part of the reimbursement game, health care consultant and former HMO executive Jim Laurenza says he considers the example of Capt. James T. Kirk of the TV show "Star Trek."

When faced with a computerized test no one had ever solved, a young and brash Kirk aced

the exam by taking on the computer and rewriting the rules himself. Kirk declared he simply didn't believe in "the no-win scenario."

Like Kirk, physicians can use ingenuity and resolve to improve their relationships with insurers by confronting the health plans head-on, as well as the computers that bundle claims and

shrink physicians' income, according to Laurenza, president of the Louisville, Ky.-based consulting firm Dacite Inc.

Though just beginning, progress in challenging bundling is already under way, and industry experts say more change is ahead. Relief, they predict, will happen in three ways: revision of physician contracts, sustained pressure from medical associations and scrutiny of insurer behavior in the nation's courtrooms.

### Changing contracts

PREVIOUSLY A SENIOR STRATEGIST WITH Blue Cross and Blue Shield of Kentucky, Laurenza has no illusions about the ease of bargaining with managed care plans. "The question is, what are payers doing to hurt [physicians], and the answer is, anything they can."

Still, physicians should not make the mistake of passively accepting the same network contracts that allow insurers to bundle claims at will, Laurenza said.

"What is the definition of insanity?" he asks. "Doing the same thing and expecting a different outcome. Doctors get into trouble when they continue to do the same thing with the hope that it will get better."

Large physician groups, in particular, often have market leverage and untapped bargaining power in relation to health plans. They can bene-

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# Coding is a bundle of trouble

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fit only by taking a tougher negotiating stance on coding issues to win better terms, experts say.

"Doctors have a fairly bad habit of not seeking professional help when they sign managed care agreements," said Toby Watt, a health care attorney in Atlanta. "Then, when bundling comes to light in the operational phase [of the contract], a lot of doctors just grit their teeth and don't say anything about it."

Watt suggested that as physicians and their lawyers negotiate contracts, they should:

- Check for any mention of rules on CPT code bundling, though the contract "usually is silent on this point."

- Try not to accept contract terms that allow only for submission of bundling disputes one at a time. This is extremely unproductive because the insurer will continue to bundle in the same way. If the plan reverses itself on a large batch of identically bundled claims, that decision should stand as precedent for how the plan reimburses in the future.

**"I want to go after that payer every year. I want to go and hit him in the knees with a baseball bat every year."**

**Jim Laurenza, consultant and former HMO executive**

- Request that the contract specify that any policies on bundling cannot be changed without advance notice.

- Work with other doctors. Though solo practitioners are unlikely to have any market clout, independent practice associations can act as a collective voice on bundling concerns during HMO contract negotiation.

- Go for broke. Ask that the practice be given an exhaustive list of all policies on codes and modifiers used in the plan's bundling decisions. "They'll kick and scream over that and say it's impossible, but they've got to have it — otherwise they could not pay a bill," Watt said.

## Make size and market muscle count

EXPERTS SAY DOCTORS WITH SOME market muscle can try to persuade insurers to include arbitration clauses, guaranteeing in writing the right to a formal review process if they are dissatisfied with a bundling decision.

A word of warning Laurenza offers to practices seeking to thwart bundling: Give the practice negotiator the best chance of getting enhancements in your contract, and never sign a managed care contract with a term longer than one year.

"I want to go after that payer every year," Laurenza said. "I want to go and hit him in the knees with a baseball bat every year."

Large group practices can use size to deter bundling, but there are other ways that strength in numbers can

come into play.

More and more, medical groups are trying to address bundling practices by raising voices in a collective way, using statistical evidence. Various state medical associations and specialty societies over the past three years have been holding meetings with insurers to protest bundling.

In 2002, the AMA pumped up the volume by sending letters to three large insurers, co-signed by a long list of national medical specialty societies, complaining about the long history of widespread bundling.

For the first time, insurers with records of serious bundling are being confronted with survey data, collected through the medical associations, documenting payers' bundling practices. Protest letters to many additional insurers were expected to be sent in January and this month.

The process has initially been encouraging.

Indianapolis-based Anthem Blue Cross and Blue Shield, a recipient of

the medical associations' letter campaign, said it had changed some of its more vexing practices on CPT code modifiers. The plan said it had stopped routinely editing codes with modifiers 25 and 59. Anthem often had been ignoring modifiers or rejecting claims with them, forcing doctors to appeal.

Anthem also said it was looking at how its standard managed care contract was phrased. The contract appears to explicitly give the insurer free reign to "rebundle" CPT codes any way it likes. But times are changing, at least at Anthem, according to Samuel R. Nussbaum, MD, the company's executive vice president and chief medical officer.

The payer's standard contract never was intended to be worded to give Anthem complete authority in bundling disputes, he said. In any case, Anthem is making conciliatory efforts to consult with state and specialty medical groups to ask them how the contract's wording can be improved to both sides' satisfaction.

In addition, the company is willing to "go in and dissect and edit" its claims-processing software to address complaints about bundling inequities as they are reported, Dr. Nussbaum said.

Changes by Anthem on bundling represent a "big step forward" and could foreshadow more industry movement, said Pat Padgett, an attorney with the Kentucky Medical Assn.



## NO BUNDLE OF JOY

Feeling the weight of bundled CPT codes? Coding experts and attorneys recommend following these tips for relief:

- Always keep highly detailed, readable medical documentation of each office visit or operation. Don't assume the reader has information about prior visits.

- Make sure all of the procedures in the report correlate logically with the diagnoses.

- Keep track of repeated cases of identical bundling and appeal all cases at once.

- Consider contacting a plan's medical director to make your case if the plan routinely denies your appeal.

- Hire a consultant to provide you with computerized billing templates to help refine your coding procedures, or pay a billing service to do additional claims scrubbing.

- Submit information on bundling to your state medical association, professional society or state insurance commissioner.

- Send reports of excessive bundling to the AMA's Web site for health plan complaints (<http://www.ama-assn.org/ama/pub/category/6760.html>).

"Some of the health plans have been receptive to changing their practices," he said. "The plans are starting to see that it's easier to go ahead and pay."

The data on bundling obtained from state medical groups will allow the Association to keep pushing health plans to change bundling practices in 2003, said Timothy T. Flaherty, MD, immediate past AMA board

chair and a radiologist from Neenah, Wis. Publicity on bundling will spur reform, he predicted.

"No one who is in business likes to have activities that are considered unbusinesslike subjected to the million-watt light in public," Dr. Flaherty said.

## Long arm of the law

EFFORTS BY MEDICAL GROUPS to oppose bundling, and future attempts by practices to work out advantageous contract terms, probably will be bolstered by the attention already being paid to medical coding in the courts, experts say.

Users of the traditionally arcane, proprietary software that supports so-called "black-box" editing likely will find the fairness of their systems put under a microscope in a trial pending before U.S. District Judge Federico A. Moreno in Miami.

In September 2002, Moreno granted class-action status to lawsuits brought against eight major health plans by 600,000 physicians.

Among many reimbursement issues, lawyers for the doctors have told Moreno that the health plans not only refuse to recognize some or all CPT modifiers but decline to provide doctors with lists of which modifiers they don't accept.

Such suits most likely will have far-reaching effects in changing health plans' policies as the automated, blanket nature of bundling becomes widely known and seen as excessive, said J.B. Silvers, professor of health systems management at Case Western Reserve University in Cleveland.

"Is anybody paying attention to it, or are some HMOs just buying the software and letting it bundle?" said Silvers, former president of Qual-Choice Health Plan in Cleveland. "The purpose [offered by insurers] is to offset perceived game playing by physicians, to put it together again. The question is, when is the game being played, and when isn't it? It's hard not to argue that some doctors clearly bill too much. But to say everybody does it is just ridiculous as well."

As the bundling battle rages on in an era when each lost reimbursement can contribute to serious losses for practices, physicians are well advised to keep close track of payers' everyday payment decisions. At minimum, to help safeguard their own livelihoods, doctors may need to boldly go where they've never gone before: the appeals process.

"I've worked with doctors for 15 years, and they've never had to worry about their income before," said Maxine Lewis, a professional medical coder in the Cincinnati area. "But they're under the gun now. I don't think the physicians should take it lying down. They should appeal and appeal. They should become fighters." ♦