



# The Icks: Estates/Bankruptcy/Work Comp/Third Party Liability/Settlement Offers

2025 CAH Conference  
Hayley Prosser & Shelly Cassidy

# Disclaimer



**This document/presentation is not to convey or constitute legal advice; it is not a substitute for obtaining legal advice from a qualified attorney of choice. Nothing herein should convey any specialization or certification by a relevant regulatory body unless proof of such certification is specifically provided. Any information given regarding particular regulations or laws is ruralMED’s interpretation and is for educational purposes only. Regulations, guidance, and interpretations change. You should consult with appropriate regulatory, statutory, or other guidance to ensure accuracy and completeness.**



# Worker's Compensation Considerations and Workflow

- **Prompt Payment- Nebraska Revised Statute 48-125.02**
  - Payment due within 30 days, or 100% of Charges is Payable
  - Hold payors accountable to State Timeline
  - Consider attaching a letter with the claim referencing this policy
- **Reimbursement Strategy**
  - Validate 96% reimbursement per WC Fee Schedule for CAHs
  - Fee Schedule for Physical Therapy
  - Watch for Additional Discounts (Multiplan & others)
  - Negotiate to remove extended discount terms from existing contracts
- **Tip**
  - Send notes with claims (only when submitting directly to the carrier)

# Worker's Compensation FAQ



- **How do we Handle Out-of-State Workcomp Claims?**
  - Follow the rules and fee schedule of the state where the claim is filed
- **What if Work Comp Denied and There's a Lawsuit Pending?**
  - Nebraska Revised Statute 48-148.02 prohibits billing the patient until the case is adjudicated
- **Can an Employer Pay us Directly Instead of Filing a Claim with the Carrier?**
  - Not allowed unless the employer is self-insured, per the Nebraska WC Court

## **What if the Carrier isn't paying or pays incorrectly?**

- Report them to the Nebraska Workcomp Court
  - Billing the patient may be considered—use caution
- **Where can I find more Nebraska Workcomp Info?**
    - [Nebraska Worker's Compensation Court Link](#)

# Third Party Liability- Medicare

- **Clear Guidance Under MSP Rules**
  - Third-party liability is primary for all accidents not occurring at home
  - Applies to both Liability and Medical Payments (MedPay) Coverage
- **Filing & Reimbursement Strategy**
  - Must pursue third-party reimbursement
  - Medicare conditional Payments can be requested after 120 days
  - Do not file a lien once the claim is filed with Medicare
  - Monitor closing for timely filing
- **Tip**
  - Ensure clear communication between registration and billing on MSP questionnaire responses

# Third Party Liability- BCBS



- **Filing Requirements**

- All claims must be filed with BCBS even if the member requests otherwise
- BCBS will handle subrogation efforts directly
- Does not prohibit providers from filing claims with the third-party
- Policies may vary for out-of-state BCBS Plans

# Third Party-Auto Type of Coverage



- **Medical Payments (MedPay)**
  - Patient's Own Auto Insurance
  - Optional Coverage
  - Benefits exhaust at set dollar limit
  - Pays regardless of fault
  - Processed on a first filed/first paid basis
- **Liability- Bodily Injury**
  - Coverage through the at-fault party's auto insurance
- **Underinsured and Uninsured Bodily Injury**
  - Coverage through the patient's own auto insurance
  - Kicks in when the at-fault driver has no or insufficient coverage



# Third Party Liability Considerations



- **The Order of Filing: Auto & Health Insurance**
  - Filing order varies based on case specifics
  - Always obtain information on all insurances involved
  - MedPay: Pays regardless of fault
  - Liability Bodily Injury: Pays upon settlement
  - Uninsured/Underinsured Bodily Injury: May pay as incurred or upon settlement
  - Keep Health Insurance timely filing limits in mind
  - Prioritize prompt follow-up on claims & swiftly move to self-pay status for statement

# Skilled Stay Nursing Home Billing



## Situation: Patient at a Nursing Home on Part A Skilled Stay Receives Services From Another Provider

- Nursing Home is paid upon PPS Methodology
  - Subject to Consolidated Billing
- Services Excluded From Consolidated Billing:
  - Physician's Professional Services
  - Certain Dialysis-Related Services
  - Certain Ambulance Services
  - Erythropoietin for Certain Dialysis Patients
  - Certain Chemotherapy Drugs & Administration Services
  - Radioisotope Services
  - Customized Prosthetic Devices
  - 2025 Consolidated Billing Exclusion Files
- Excluded Services Can Be Billed to Part B By Other Provider!

# CAH Swingbed

## Situation: Patient Received MRI In a CAH Swingbed Stay

- CAHs with swing beds are exempt from Part A SNF PPS reimbursement methodology
  - Reimbursed based on cost
- Consolidated billing exclusion list does not apply, therefore, complex facility services CANNOT be separately billed to Part B

# ESRD Billing

- **ESRD PPS Consolidated Billing**

- Medicare ESRD PPS covers all outpatient dialysis services for ESRD beneficiaries
  - Certain labs, drugs, equipment, and supplies are bundled and not separately payable when billed by non-ESRD providers
- Use AY modifier for services unrelated to ESRD treatment
- [Items and Services Subject to ESRD PPS Consolidated Billing Effective 1-1-2025 \(PDF\)](#)

# Hospice: Attending Physician Services

## An RHC physician, NP, or PA Can Provide Hospice Attending Physician Services

- Provider must be designated as the patient's attending practitioner on hospice election form
- DX can be related to hospice DX

## Hospice Physician Attending Services Can Be Either RHC or Non-RHC

- RHC provider is working for RHC at time of hospice physician attending physician service
  - **Qualifying Visit Billed**
- RHC provider NOT working for RHC at time of hospice attending physician service
  - **No Qualifying Visit Allowed**

# Hospice: Attending Physician Services



## Billing:

- GV Modifier
  - *Attending physician not employed or paid under arrangement by the patient's hospice provider*
- Condition Code 07
  - *Treatment of a non-terminal condition for a hospice patient*
  - *Per e-mail from WPS apply when utilizing GV modifier*
- CG Modifier

10 BIRTHDATE	11 SEX	12 DATE	ADMISSION			16 DHR	17 STAT	CONDITION CODES				29 ACDT STATE	30	
13 HR	14 TYPE	15 SRC	18	19	20	21	22	23	24	25	26	27	28	
01011950	M		3	1		01	07							
31 OCCURRENCE CODE	32 OCCURRENCE CODE	33 OCCURRENCE CODE	34 OCCURRENCE CODE	35 OCCURRENCE CODE	OCCURRENCE SPAN		OCCURRENCE SPAN		OCCURRENCE SPAN		OCCURRENCE SPAN		38	
DATE	DATE	DATE	DATE	DATE	FROM	THROUGH	FROM	THROUGH	FROM	THROUGH	FROM	THROUGH		
										39 VALUE CODES		40 VALUE CODES		41
										CODE	AMOUNT	CODE	AMOUNT	C
										a				
										b				
										c				
										d				
42 REV. CD.	43 DESCRIPTION			44 HCPCS / RATE / HIPPS CODE			45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES					
0521	OV ESTABLISHED LEVEL 3			99213CGGV			010125	1	175.00					


# No Surprises Act-ONN Plans



- Utilize the Open Negotiation Process
- Develop Form Letters
- Don't Be Afraid to Use IDR Process!
  - In 2023, 80% of cases settled in an amount greater than the QPA

# Bankruptcy


- Types of Bankruptcy
- Notification Process
- Resources
- Workflow & Considerations



## Bankruptcy

*['bʌŋk-(,)rəp(t)-sē]*

A legal proceeding initiated when a person or business is unable to repay outstanding debts or obligations.

 Investopedia



# Bankruptcy-Resources

- [US Bankruptcy Court- District of Nebraska Link](#)

- Case Locator (PACER)
- E-Filing Claims (ePOC)
- Court Contacts



# Bankruptcy- Types for Individuals

- **Chapter 7: Liquidation Bankruptcy**
  - Must pass “Means Test”
  - Trustee appointed – Assets sold to pay debts (secured debts paid first)
  - Medical debt is rarely paid
  - Stays on credit for 10 years
  - Fast timeline 60-90 days
- **Chapter 13: Reorganization Bankruptcy**
  - For those with a steady income who want to keep property
  - Debt limit \$2.75 million
  - Debts repaid over 3-5 years (secured prioritized)
  - Remaining unsecured debt is discharged after repayment period
  - Stays on credit for 7 years
  - Long Timeline 3-5 years

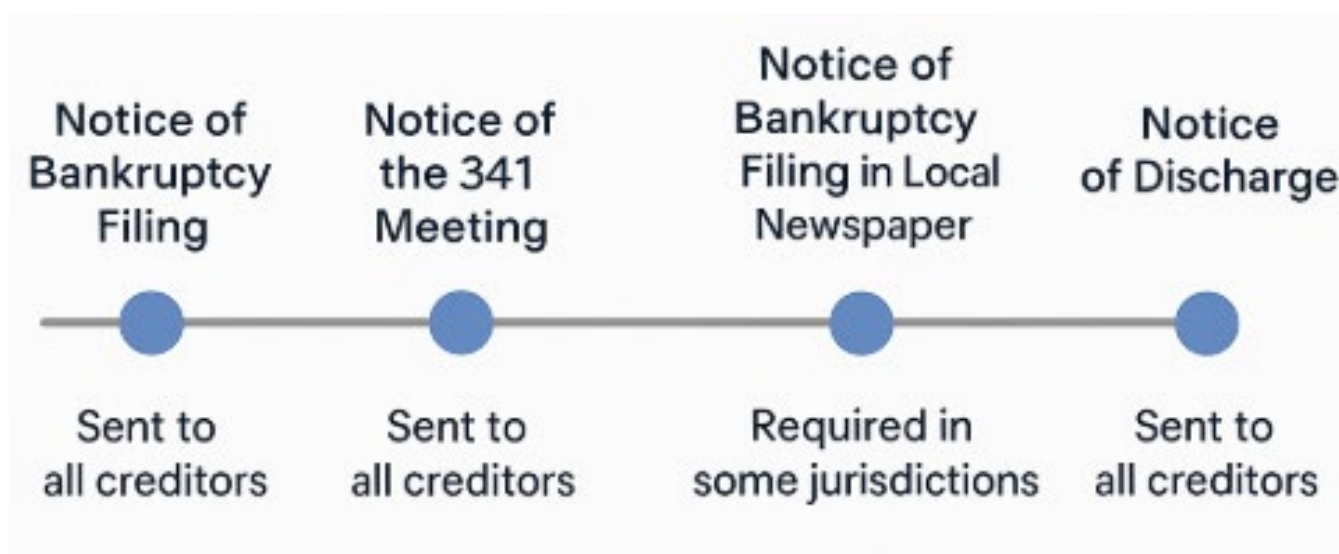
# Bankruptcy- Types for Individuals



- **Chapter 11: Reorganization Bankruptcy**
  - No Debt Limit
  - Used by individuals with very large debts exceeding Chapter 13 limits
  - Similar process as Chapter 13
- **Chapter 12: Family Farmer and Fisherman Bankruptcy**
  - For farmers or fishermen with regular income
  - Must meet specific debt limits and ratios
  - Similar process to Chapter 13 (keep property & pay over time)

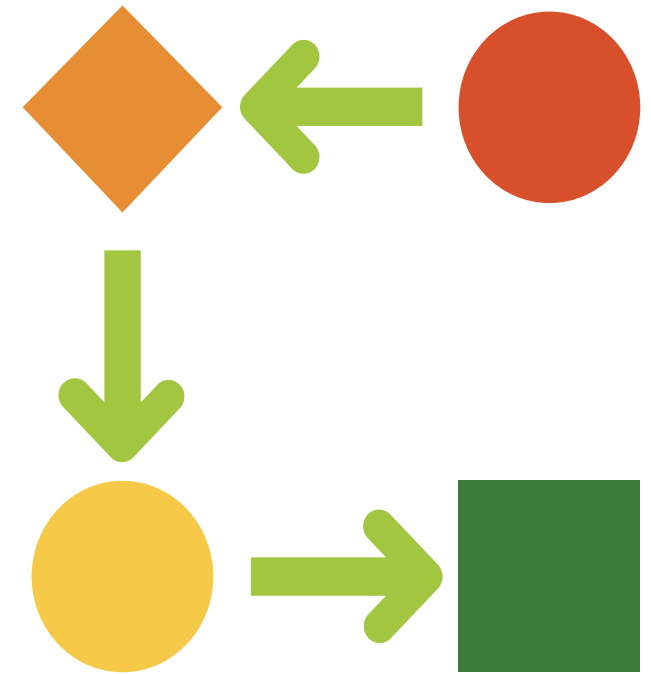
# Creditor Notices & Timeline

- **Creditors listed in the bankruptcy will receive a "Notice of Bankruptcy Case Filing"**
- **Once notified, all collection efforts must stop immediately.**



# Bankruptcy Workflow & Considerations

- **Have a process to stop all collections, including agency accounts**
- **Set a clear policy for account adjustments**
- **Follow up to confirm bankruptcy discharge**



# Bankruptcy-FAQ

- **What if we don't receive an official notice?**
  - Still included if debt was incurred *before* filing
- **Voluntary payment after filing or discharge?**
  - Allowed under 11 U.S. Code § 524 – debtors may choose to repay
- **New debt after filing but before discharge?**
  - Not included in the bankruptcy; remains owed

# Divorce Billing Situations

**"BILL MY EX"**



# Divorce Billing Situations



- **Spouses are equally responsible for medical bills incurred during the marriage**
- **Both parents are liable for the children's medical expenses, no matter who signs**
- **Divorce decrees don't bind creditors- they are between ex-spouses**
- **Can you switch the billing to the "Ex"?**



# Estates

- **Best Practice Workflow**
  - Identify deceased patients (manual or online)
  - File Demand for Notice
  - File Statement of Claim
  - Conduct regular follow-up
  - Upon payment, file Release of Claim
  - (Optional)Continue Patient Statements
- [Online Forms Link](#)

# In Jail- Who Pays



# Medical Services Defined



## Nebraska Statute 47-701

### **WHO?**

Any person ill, wounded, injured, or otherwise in need of medical services at the time such person is arrested, detained, taken into custody, or incarcerated

### **WHAT?**

Medical and surgical care and treatment, hospitalization, transportation, medications and prescriptions, and other associated items

# Order of Responsibility for Payment



## Nebraska Statute 47-702

### 1. Commercial Insurance

- Inmate must comply with all insurance payment requirements
- The law does not reference patient balance due amounts
- If Insurance doesn't pay, provider may bill law enforcement (47-703)

### 2. Government programs, including VA, Medicare, \*Medicaid

### 3. Law enforcement is primary if they caused the injury, or it occurred during arrest

\*See Statute 47-706 for DHHS for Medicaid suspension rules

# Requirements for Law Enforcement



- Nebraska Statute 47-703
  - Must notify of any potential payor sources
  - Must pay claim within 90 days:
    - From initial billing to law enforcement agency
    - Claim is denied by payor
    - 180 days have passed with no successful collection from payor

# Is a Discounted Amount Required

- **The Nebraska Law is silent**
- **Common to allow Medicaid Rates**



# Settlement Offers- Considerations



- **Types:**
  - Patient Offers – Lump sum proposed as payment in full
  - Attorney Offer– Settlement doesn't cover all medical claims
- **Key Considerations:**
  - Current payor contact terms
  - 501R compliance implications
  - Age of Account- Are you rewarding bad behavior?
  - Precedent concerns- word gets around fast

# Single Case Agreements

- **Common with both participating and non-participating payors**
  - ⚠ Beware of long-term or rollover language
  - ⚖ Use caution — avoid setting broad precedents
  - 💰 Don't be swayed by “prompt payment” promises
  - 🤔 Evaluate individually and lean conservative
  - 🚫 Work comp: Hard no



# Bad Debt-Sexual Assault

- **LB157 Passed by Legislature- Effective 9/2/2023**
- **Prohibits certain health care providers from referring debt for collection incurred for the treatment of sexual assault, domestic assault or child abuse**
- **Healthcare providers CAN see payment for services- just prohibits use of collection agency or other actions that could affect the victim's credit record**
- **If account for such services is referred to a collection agency, it must be returned upon notice**
- **There is no private cause of action. This statute is not to serve**

# Funding Options

- Available funding for these expenses continue to be available through programs administered by the Crime Commission
- Due to legislation previously passed by the Legislature, hospitals may bill the Crime Victims Reparations Program (CVR) directly for services related to the examination and treatment of survivors
- Direct questions about Crime Commission processes, contact the Crime Commission directly
- (<https://ncc.nebraska.gov/crime-victim-reparations>) has information about the program, application links, as well as email addresses and phone numbers for direct contact with the Commission.

