

ORTHOPEDIC RISK REDUCTION STRATEGIES

In analyzing CAP orthopedic claims, common issues were identified. The following recommendations reflect these recurring issues. They are presented with the intention of improving patient care and maximizing the ability to defend that care.

Orthopedic claims requiring payment fell into two major areas:

- Claims that are a direct result of the surgeon's actions in the Operating Room
- Claims related to errors in diagnosis or treatment.

CLAIMS ARISING IN THE OPERATING ROOM

Wrong Site / Wrong Surgery

- While the wrong surgery was performed, or the orthopedist operated on the wrong site, in less than two percent of all orthopedic claims, that allegation was the basis for 14 percent of all money paid for orthopedic claims.
- The following practices help identify the correct site for the operation:
 - The patient's medical record should be available in the operating room.
 - The American Academy of Orthopedic Surgeons (AAOS) advocates "Sign Your Site" policies which are proven to decrease operating room confusion. These policies recommend that the surgeon place his initials, in advance, on the operative site using a permanent marking pen and then operating through, or adjacent to, the initials.
 - Spinal surgeons help ensure performance of correct level surgery by obtaining radiological confirmation of marker placement. The radiograph is best taken with a marker on the vertebra or, preferably, in the disc space, after the incision is made but prior to excision of deep tissue.
- Detail the above precautions in the dictated operative note, thus, documenting the surgeon's diligence and exercise of due care.
- Be truthful about care rendered when communicating with the patient / family and when documenting that care in the medical record.

Failure to Completely Remove Internal Fixation Devices

- The surgeon's failure to completely remove internal fixation devices was the basis of the claim in 11percent of all paid orthopedic surgical claims.
- A portable radiological film can help identify the location of an implanted device. X-ray should be employed whenever a question arises whether devices have been removed as intended.
- If it is impractical or inadvisable to continue searching for unexposed hardware, document that the risks of continuing such surgery outweigh the benefits. Documentation of this conscious decision, and the efforts taken to that point, help defend a claim of negligence.

Additional Orthopedic Surgical Risk Management Strategies

- Elective orthopedic surgical procedures frequently lead to unrealistically high patient expectations. Thus, it is necessary for the surgeon to spend time identifying the risks and limitations, specific to the procedure, and establishing realistic outcome expectations with the patient.
- Patient discussion and medical record documentation should include:
 - Expected outcomes of pain (reduced, unchanged, eliminated),
 - Patient's responsibility in his care, post-operatively,
 - The possibility of infection,
 - Use of fixation devices, their potential complications and the possibility that they may not be removable,
 - The potential for injury to nerves, vessels or nearby structures.
- Patients known to be non-compliant or risk-takers may be poor candidates for procedures with long recovery or rehabilitation periods.

NON-SURGICAL CLAIMS ISSUES

Errors in Diagnosis or Treatment

- One-third of paid orthopedic claims were for non-surgical reasons.
- One-half of non-surgical claims were paid for missed, wrong or delayed diagnoses while mal-reduction or wrong application of a cast accounted for another twenty percent.

Risk Management Strategies to Avoid Errors in Treatment and Diagnosis

- Review all laboratory or diagnostic tests in a timely manner,
- Establish realistic treatment outcome goals with patient,
- Remove casts when there is any complaint of discomfort,
- Require staff adherence to infection control procedures,
- Closely monitor the practice of physician extenders,
- Contact patients, at home, after in-office invasive procedures,
- Document the following physician-patient discussions:
 - Physician's treatment plan and rationale for that plan,
 - Education regarding signs and symptoms of complications,
 - Expected medication actions and reactions,
 - Treatment risks, benefits, alternatives, and alternative treatment risks and benefits,
 - Plan for follow-up and specific timeframe.

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