The secret world of silent PPOs

They sell provider discounts, often without doctors' knowledge or direct consent. Can they be stopped?

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Have you ever been handed an EOB that looked . . . well . . . strange? Maybe it had some unfamiliar corporate name and logo you'd never seen before. Then, as you read down, did you end up scratching your head, wondering why your original charges had been discounted so heavily, and for a patient who didn't seem to be in any network you belonged to? If so, you may have been the unwitting victim of a silent PPO.

Until recently, network PPOs operated fairly transparently. In return for a PPO steering patients your way, you agreed to discount your usual and customary charges, sometimes significantly. In principle, the more contracts you signed, the more access you had to prospective patients, who, over the years, have made PPOs their managed care arrangement of choice.

But as doctors have jumped enthusiastically onto the PPO bandwagon, agreeing to work for different rates in different contracts, they've helped to fuel another PPO market—often referred to as the "secondary discount market." Here, PPOs lease their provider lists and associated discounts to organizations that may not have networks of their own, like smaller health plans, workers' comp plans, or auto liability insurers. For some of these PPOs, the aim is no longer to steer patients to providers in return for certain financial concessions; it's to shop around their discounts, often without doctors' knowledge. Collectively, these are known as "silent PPOs."

Generally, silent PPOs aren't assuming risk in the expectation of certain rewards, as traditional PPOs do. They make their money when they lease their networks to clients who do pay the bills—and are looking for a break.

These clients may have started off as entities without their own networks. But more and more, major health plans and others in the big leagues are also exercising their lease options, often through a middleman, in order to reduce their out-of-network bills.

The only loser in this arrangement is the doctor, who often ends up giving discounts to health plans he never signed up for, and which may not even steer any patients his way. The AMA estimates that annual physician losses due to these "silent PPOs" are between $750 million and $3 billion.

"This secondary discount market has now become so aggressive that doctors feel that they have no control over it," says Mark W. Rieger, CEO of Sacramento-based National Healthcare Exchange Services, which assists physicians in auditing and appealing health plan payments.

San Diego urologist James G. Knight agrees. "Tracking the silent PPO is like trying to track down ghosts," he says.

In the face of such stealthy behavior, what's a ghost-busting doctor to do? We took a closer look at how these PPOs operate to see how you can avoid falling into their grasp.

Out-of-network service—at in-network prices

To understand how silent PPOs operate in the real world, consider what happened recently to Eric Del Piero, an ophthalmologist and retinal specialist who practices in Monterey, CA.
In late 2004, a man whose eye had been injured several days before in a work-related accident walked into Del Piero's office to be treated. Del Piero examined the man; detected foreign bodies embedded in his cornea and orbit; and spent the next hour trying to remove them, which he eventually did. For the infection that had developed, he applied a topical antibiotic and prescribed an oral one, as well. At the end of the visit, he instructed his receptionist to schedule a series of follow-up visits over the next two weeks. To the patient's workers' comp plan, the office submitted a bill for $525—$275 for the initial visit, and $250 for the removal of the foreign bodies.

But when Del Piero received his EOB about a month later, he was shocked to see that his charges had been reduced to a mere $83.40. Not only had the initial visit been downcoded, but the entire bill had been "repriced," according to a PPO contract he had with Blue Cross of California. Stranger still, at the top of the EOB wasn't the name of the workers' comp plan but "CareSolutions," a mail-in service of StrataCare, a national bill review company headquartered in Irvine.

In time, Del Piero put the pieces together: Contracted by the workers' comp plan, StrataCare had searched its database, found that Del Piero was part of the Blue Cross of California network, and applied the in-network discount that Del Piero had agreed to.

But the patient Del Piero saw had gone out-of-network to get his eye treated, so how was StrataCare able to apply The Blue Cross in-network discount? Because Blue Cross had leased its network to the workers' comp plan, which didn't have one of its own. That lease arrangement had permitted the plan to buy Del Piero's out-of-network services at highly discounted in-network prices.

"I assumed that when I signed up with Blue Cross that I'd only be seeing Blue Cross patients—not that my name and contractual discounts would be sold," says Del Piero, who no longer sees any workers' comp patients.

The workers' comp plan that leased Blue Cross of California's provider network didn't have a network of its own. But sometimes health plans and self-funded plans that do have their own PPO network also lease networks when the situation warrants. Here's a hypothetical example of such a situation:

Let's suppose a patient comes into your office carrying a card from Acme Corp.'s self-insured PPO—SuperbHealth. You're not a member of SuperbHealth, so you treat the patient as an out-of-network provider, and send your bill to the address on the card, which is that of the third-party administrator (TPA) that handles PPO administration for Acme Corp.

Since the TPA wants to get Acme Corp. the best deal it can get, it forwards your bill electronically to a contracted reprice—essentially a company that maintains an extensive discount database, containing the names and rosters of scores of PPO networks. The reprice submits your name and employer ID to identify which PPO networks you belong to. If your name pops up more than once, it chooses the network with which you've contracted the lowest rate, and arranges a temporary lease. The bill you've submitted can now be repriced, according to the new and discounted rate.

In effect, you've been forced to give an in-network discount to a PPO you don't even belong to, resulting in less than full payment for your services. And while you've come out the loser, everyone else has benefited—ranging from Acme Corp.'s reduced out-of-network healthcare costs to your PPO's access fees. (These fees take one of three forms: One is a per-employee-per-month fee, so that if Acme Corp. had 1000 employees and the PPO access fee was $3.50, it would pay $3,500 monthly to lease the network. The second is a "shared savings" model, which is the difference between a physician's usual and customary charges and the discounted rate. And the third is a percentage of the physician's initial charges, typically 10 percent.)

Can this possibly be legal? Unfortunately, it could very well be if you've signed a contract giving your PPO the right to lease its network, along with your agreed-upon provider rate. "I've read dozens of PPO contracts, and they often contain very loose language regarding who the PPO can sell its contracted rate to," says Mark Rieger, the California health plan auditor.

**Tips to minimize the stealth activity**

You aren't powerless, however. There are things doctors can do to detect and even prevent silent PPOs from dipping into their pockets:

Sanitize and safeguard contracts. The best place to head off problems is at the contract stage—before you put your name on the dotted line. If, like most doctors, your aim in joining a PPO network is to offer certain discounts in exchange for increased patient volume, that fact should be stated clearly up front in the contract. Then, insert a clause that says, "Anyone who wants access to my discounts must conform to this criterion, along with any other terms and conditions set out in the PPO agreement."
In their online provider's guide to silent PPOs, attorneys Carlin J. Phillips and Andrew J. Garcia urge doctors to insert another clause, too. This one forbids the PPO from disclosing your discounts until the prospective lessee has agreed to offer a PPO plan that complies with the agreement. (To read the entire provider's guide, go to www.phillipsgarcia.com/silentprovb.html).

Some doctors, of course, would prefer to have none of their proprietary discount information accessed or disclosed, whatever the prospective lessee agrees to. "We routinely move to have onerous provisions deleted from PPO contracts before we permit our members to take the next step," says Thomas W. LaGrelius, an FP in Torrance, CA, and head of South Bay Independent Physicians Medical Group, a provider-owned corporation that with its affiliates manages PPO contracts for more than 2,000 doctors statewide. "The reality is that, once a PPO organization faces a knowledgeable legal messenger for the doctor, it very quickly deletes these provisions, because it knows it can't get away with them."

If you've already signed up with a PPO and it sends you a certified letter that it plans to amend your original provider agreement to permit leasing, take action. "Send a certified letter back to your health plan indicating that you'll continue seeing patients who were enrolled in the plan at the time of the original agreement, but not enrollees of any future subsidiary or allied plan," says Howard N. Smith, an ob/gyn in Washington, DC, who's successfully used this method himself. "If you fail to dissent to the change, you'll indicate your acceptance by default."

**Scan your discounted EOBs closely.** Phillips and Garcia urge doctors to be alert to a number of EOB danger signs, including the following:

- The discount is being taken by an automobile insurer or workers' comp plan.
- The PPO whose discount has been accessed isn't named.
- The PPO is named, but you don't currently have an agreement with it.
- The EOB bears the name of an unfamiliar company, which could be a bill repricing firm.

**Fight back if you think you've been victimized.** Start with the PPO itself. If it's been negligent about whom it sold your discount to, especially if that entity is a phony health plan, it may (that's may) be willing to help you recover your money. If that doesn't work, and the amount is substantial, contact an organization like National Healthcare Exchange Services (www.nhxs.com), which can assist you in appealing the claim. As a last measure, consider filing a lawsuit, either on your own behalf or with other doctors as part of a class action.

PPO abuses aren't likely to go away anytime soon. Some states have taken action—North Carolina, for one, bans silent PPOs altogether—but most activity in the secondary discount market goes on unchecked. In his testimony before the National Association of Insurance Commissioners this summer, James Rohack, immediate past chair of the AMA board of trustees, urged regulators to get tough: "We feel strongly that it is critical for states to shine a light on this stealth discounting that is unknown to most physicians, their patients, and the regulators of individual states."

In the meantime, physicians will have to do what they can on their own.