

## Have You Had Your Wallet Biopsy?

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It is interesting that in a time of increased scrutiny by healthcare fraud investigators of the activity of health care providers that so many providers advertise discounts and/or free services to entice patients into their practices, considering:

- A number of federal laws prohibit the offering of discounts and/or free services to federally funded program beneficiaries and recipients (e.g., Medicare, Medicaid, etc.) to entice or induce patient to come in for healthcare. The premise here is that the government believes that such enticements or inducements challenge the medical necessity of care, coupled with the government's belief that they should not pay for their portion of the patient's healthcare services if the patient does not pay their portion (deductibles, co-pays, and non-covered) of the healthcare services received.
- Peers, payors and potential patients of providers advertising discounted and/or free services may suspect that providers engaged in this activity do so to avail themselves with an opportunity to conduct a **wallet biopsy** on those responding to the offers or specials to determine if respondents have available payment sources for future services to be rendered, where these providers are never unable to find a condition to treat if payment source available.

Certainly providers offering discounted and/or free services are not new; it has been around for years, especially within the chiropractic profession. Many chiropractors – following the advice of practice building gurus or mimicking what their peers do - employ this marketing technique as a means to get and/or retain patients. However, it is evident by looking at some of the ads out there, *from sea-to-shining-sea*, by doing a 'Google' search that many providers appear to be clueless as to the implications of what they say and their potential exposure as a result – look at these examples:

- **California:** Computerized Back Pain Exam – An exciting **new computer** that will tell you why you have back pain, and it's free! For a limited time, we will give you a FREE exam worth \$147.50. Call... for an appointment today and receive a **free bonus**

**PROBLEM:** *The computer may be exciting, generating reports to convince patients they need care. However, neither thermography nor surface electromyography technology is a scientifically-recognized diagnostic device when employed in the manner advertised. Further, this ad purports the computer back pain exam as being worth \$147.50 despite the fact that exams (for billing purposes) are clearly defined to have three key components 1) History, 2) Physical Exam and 3) Medical Decision Making and this computer (exam) is not considered an exam! Further, the ad does not report that the offer (per federal law) excludes Medicare and Medicaid.*

- **Colorado:** \$37 Exam + Free Massage – Includes **comprehensive** new patient exam, all necessary diagnostic tests... Free Massage from our massage therapist

**PROBLEM:** *This ad reflects that new patients will get a comprehensive exam, meaning the doctor will 1) take a comprehensive history, 2) conduct a comprehensive physical exam, and 3) make high complexity medical decisions on a patient with high risks of complications and/or morbidity or mortality. Further, the ad indicates the patient will receive a free massage, simply because they paid for the \$37 exam. The ad does not indicate what type of massage it is (therapeutic or palliative) and does not account for possible contraindications to massage. The ad does not report that the offer (per federal law) excludes Medicare and Medicaid.*

- **Idaho:** FREE Initial Exam - \$85 to \$145 value. New Patients only. **Workers' Comp and Personal Injury cases excluded**

**Problem:** *The ad does not reflect why the FREE exams exclude workers' comp and PI cases, possibly indicating that the clinic is a WC/PI Mill. Further, the ad does not report that the offer (per federal law) excludes Medicare and Medicaid.*

- **Kansas:** New Patient Special. Comprehensive Spinal Exam, In Depth Consultation. Valued at \$250 - Limited Time Special FREE

**Problem:** Promises a free comprehensive spinal exam which indicates that the doctor will be performing the components as identified above (Colorado). Further, the ad does not report that the offer (per federal law) excludes Medicare and Medicaid.

- **Kentucky:** Your first exam and x-rays (if needed) will be discounted to only \$37, AND your consultation is FREE! A \$320 value!!!

**Problem:** Although reporting the consultation (or gaining information about the patient's condition = history) is free, this clinic charges \$37 for an exam that by definition would include the promised free consultation service. The ad does not report that the offer (per federal law) excludes Medicare and Medicaid.

- **Missouri:** For only \$30 All new patients referred by our patients will receive health history, consultation, orthopedic and neurological exam, report of finding and first visit adjustment – A \$125 to \$185 value for only \$30

**Problem:** The ad indicates that all patients will be adjusted regardless of their condition. Further, the ad does not report that the offer (per federal law) excludes Medicare and Medicaid.

- **Tennessee:** FREE comprehensive spinal exam (\$105 value). Including detailed history, posture evaluation, osteoporosis assessment, computerized range of motion study, chiropractic physical exam and evaluation of findings.

**Problem:** This clinic promises a free comprehensive exam while at the same time reporting respondents will not get a comprehensive history but will only get a detailed history. The ad does not report that the offer (per federal law) excludes Medicare and Medicaid.

The above are just a few examples and are not intended to suggest that such advertising only takes place in the identified states. With time I am sure that one could find provider websites offering discounted and/or free services in all fifty states, as well as identifying other issues with site reviews (e.g., offering wellness points to pay patients for treating, claiming to treat conditions that are outside the scope of chiropractic practice, what practice consultant the chiropractor is working with, and more...).

Undoubtedly, offering of discounted and/or free services by providers may be appropriate and consistent with the laws & rules if providers make darn sure that their advertising is completely truthful, clear as to its limitations and is employed in a manner that is consistent with all relevant governing standards. However, if such advertising does not conform to standards it could be an indicator for investigators that something more may be amiss in the provider's practice than just their marketing based on the belief that if the provider can't get it right before patients come then the odds are that the provider is doing other things wrong in their practice!