



COLLEGE of AMERICAN PATHOLOGISTS

January 29, 2020

Sent via email

Gerald Petkau
Interim CEO and Chief Operating Officer
Blue Cross and Blue Shield of North Carolina
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Rahul Rajkumar, MD
Senior Vice President and Chief Medical Officer
Blue Cross and Blue Shield of North Carolina
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Dear Mr. Petkau and Dr. Rajkumar:

The College of American Pathologists (CAP) supports efforts by the Blue Cross and Blue Shield of North Carolina (Blue Cross NC) to control costs of laboratory services and inhibit the practice of pass-through billing. We encourage Blue Cross NC to continue with implementation of the pathology billing policy AHS-R2169, or a revised version that accomplishes these same ends. As the world's largest organization of board-certified pathologists and leading provider of laboratory accreditation and proficiency testing programs, the CAP serves patients, pathologists, and the public by fostering and advocating excellence in the practice of pathology and laboratory medicine worldwide.

In 2019, Blue Cross NC announced a pathology billing policy that we believe would appropriately address the practice known as client or "pass-through" billing, where a treating physician realizes a profit by charging a patient full price for a laboratory service the physician received at a discount. The physician may even mark up the price of the service to widen the profit margin. The CAP believes payment for anatomic pathology services should be made only to the person or entity performing or responsibly supervising the service, except for referrals between laboratories independent of a physician's office. This is consistent with American Medical Association (AMA) ethics principles¹ and has been a Medicare requirement since 1984.

Pass-through billing incentivizes providers to choose laboratories based only on the lowest price, while also encouraging overutilization, as each service yields profit. Direct billing helps to ensure that perverse financial considerations are not influencing physicians' ordering of pathology services for their patients. With direct billing, ordering physicians can also consider quality when choosing laboratory services for their patients. It is important to understand that direct billing does not restrict who may perform a service, only who may bill for it. Any qualified physician who performs or responsibly supervises a pathology service may bill for it. Further, ordering physicians benefit from direct billing, as this helps ensure compliance with federal laws that prohibit certain unlawful economic arrangements between physicians and the clinical laboratories to which they refer patient testing.²

¹ <https://policysearch.ama-assn.org/policyfinder/detail/fees%20for%20medical%20services?uri=%2FAMADoc%2Fethics.xml-E-11.3.1.xml>

² <https://www.justice.gov/usao-ma/pr/strata-pathology-resolve-allegations-regarding-kickback-payments>



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In closing, we urge Blue Cross NC to continue with its pathology billing policy originally introduced in 2019. This policy supports direct billing practices in line with AMA ethics principles and is in the best interest of both good patient care and cost control. Elizabeth Fassbender, JD, Assistant Director, Economic and Regulatory Affairs will contact you to arrange discussions between your medical leadership and that of the CAP. She can be reached at efassbe@cap.org or 202-354-7125.

Sincerely,

Jonathan L. Myles, MD, FCAP
Chair, Council on Government and Professional Affairs