

Performing a Review of Past Medical Bills to Determine the Reasonableness of Costs

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Abstract

Through their work developing and implementing life care plans, life care planners have routine exposure to costs associated with the ongoing care of individuals with disabilities. This work encompasses a wide range of services, including but not limited to routine medical care, diagnostic tests, therapeutic modalities, medical procedures and surgical interventions, medications, transportation, household services, case management and vocational services. When combined, published professional standards of practice, peer-reviewed generally accepted methodology, and recurring exposure to actual costs for services, provide a foundation for opinion and testimony regarding the reasonableness of past medical charges and future costs.

Introduction

It has become increasingly understood, particularly within the United States, that there is a growing complexity and limited transparency regarding the costs of medical care and procedures (Bai & Anderson, 2016; Tompkins, Altman & Eilat, 2006). This can equate to challenges in interpreting and understanding the reasonableness of associated past charges and gives rise to the need for expert analysis and opinions. Methodical review of medical bills and opinions regarding the reasonableness of past charges for those bills are within the purview of rehabilitation professionals in the specialty practice of life care planning. For purposes of clarity, the term charges will be used when describing billing that has occurred in the past. The term cost will be included to describe present or future goods or services.

The specialty practice of life care planning is a tool of case management and a transdisciplinary profession comprised of rehabilitation professionals, including case managers, nurses, rehabilitation counselors and therapists who possess specialized knowledge, training and experience in the medical aspects of disability (Gamez, Johnson, & Stajduhar, 2017; International Academy of Life Care Planners [IALCP], 2015; Johnson, 2015; Johnson, Pomeranz & Stetten, 2018; Mauk, 2019; Weed & Berens, 2018). This specialized knowledge is enhanced through hands on, clinical rehabilitation and case management experience (Weed & Berens, 2018). Life care planners customarily review and research the associated costs of rehabilitative therapeutic modalities, specialized and routine medical care and

diagnostics, home services and modifications, mobility aids and transportation, and medical supplies and equipment, and many other dynamic components of a life care plan (IALCP, 2015; Johnson, 2015; Johnson, Pomeranz & Stetten, 2018).

As thoroughly outlined in the International Academy of Life Care Planners *Standards of Practice* (2015), standardized methods and procedures are in place for gathering information for life care plans. The process includes interviews, professional consultation and routine review of medical and billing records (IALCP, 2015; Weed & Berens, 2018). Guided by peer-reviewed, generally accepted methodologies, the clinical experience of life care planners provides a foundation for their specialized knowledge to reliably determine the reasonableness of past and present medical bills in addition to determining future costs contained within a life care plan (Weed & Berens, 2018).

Through a combination of training, education, certification, clinical experience, and understanding of state and federal laws, life care planners are uniquely qualified to accurately and credibly address the reasonableness of medical charges (Commission for Case Manager Certification [CCMC], 2019; Commission on Rehabilitation Counselor Certification [CRCC], 2017; International Association of Life Care Planners [IALCP], 2015; Weed & Berens, 2018).

Background and Precedent

McGowan and Porter (1967) identified the historical multidisciplinary coordinator role of rehabilitation professionals and references even earlier academic publications describing the manner in which rehabilitation counselors act

. . . not as a psychologist, psychiatrist, sociologist, social worker, or physician [but] a "Maverick" of the highest caliber drawn from all the above and more...an expert coordinator of services . . . [with] . . . many general abilities and special abilities in at least two or more disciplines (p.146).

Currently, there are certifications available for professionals in case management, life care planning and rehabilitation counseling that align and incorporate the early principles of coordination as a standard area of practice for rehabilitation professionals who coordinate life care plans (CCMC, 2019; CRCC, 2017; IALCP, 2015).

Life care planners draw from the day-to-day clinical work of their established professional identities when asked to provide an expert opinion on the reasonable value of medical and related services (CCMC, 2019; CRCC, 2017; IALCP, 2015; Weed & Berens, 2018). This work includes communication with billing and insurance departments for local providers, review of regional statistical data and publications, detailed analysis of the specific individual's medical records, bills, billing summaries, as well as input from their medical providers and administrative personnel (CCMC, 2019; CRCC, 2017; IALCP, 2015; Weed & Berens, 2018). These are routine and essential tasks for the development of a life care plan and inform the life care planner's expert opinion of the reasonableness of charges and costs. The life care planner's qualifications to opine on the reasonableness of charges and costs is further rooted in past court decisions.

Legal Precedent

Early legal precedent was established in *Womack v. Burka* (1944), in which the court believed that the superintendent of a hospital, or a surgeon's bookkeeper, were as qualified to opine on the reasonableness of a surgeon's charges as the surgeon himself due to their extensive exposure to this aspect of the surgeon's practice. What is clear here is that the court determined that through routine exposure and experience, an appropriately aligned individual establishes, over time, an expertise regarding the reasonableness of charges.

In the case *Aetna Life Ins. Co. v. Hare* (1972) the court ruled that a witness in a particular field with acquired knowledge beyond that of an ordinary layperson may be deemed qualified as an expert in that field. The expertise of life care planners in the context of opining on the reasonableness of charges certainly far exceeds that of a layperson. (CCMC, 2019; CRCC, 2017; IALCP, 2015; Weed & Berens, 2018).

More recently, in *Arthur v. Catour* (2005), the court held that when seeking admission of an unpaid bill into evidence, the reasonableness of that bill can be established through the opinion of a person with knowledge of those services and their customary charges.

The historic and unique role of life care planners fulfills the description of a qualified professional who can address reasonable medical charges beyond that of a layman's interpretation (Weed & Berens, 2018). The multidisciplinary coordinator role identified by McGowan and Porter (1967) has historically placed allied health professionals (of which the field of life care planners is comprised) in the front and center of the coordination of medical care and rehabilitative efforts. As coordinators of care, life care planners are uniquely aware of and routinely review medical charges within a diverse collection of medical and rehabilitation providers, companies and facilities (IALCP, 2015; Weed & Berens, 2018). For example, the specific cost associated with

a single surgical procedure includes facility fees, surgeon fees, and anesthesia fees in either an inpatient or outpatient setting. This is an example of the specialized knowledge that is well-known by life care planners, but not within the purview of a layperson, as distinguished by the courts.

Standards of Practice and Professional Consensus

In addition to established legal precedent, the community of life care planners has formed professional associations and adopted standards of practice which support expertise in opining about the reasonableness of medical and rehabilitation charges (CRCC, 2017; IALCP, 2015). The International Academy of Life Care Planners (IALCP) is the umbrella association for all life care planners. Beginning in 2000, the IALCP developed and published *Standards of Practice for Life Care Planners*, which is now in its third edition (IALCP, 2015).

These standards provide additional oversight and guidelines for professionals which are clearly rooted in legal and historical precedents. Standards include defining the scope, historical and transdisciplinary perspective of life care planning; educational and certification standardizations within one's specific profession (i.e., nurse licensure, rehabilitation counselor master's degree, etc.); participation in continuing training and education within the specialty practice; and the standardization of the role, function and performance of their given profession (IALCP, 2015). Particular to the issue of medical charges, the *Standards of Practice for Life Care Planners* (2015) states:

The life care plan is a dynamic document based upon published standards of practice, comprehensive assessment, data analysis, and research, which provides an organized, concise plan for current and future needs with associated costs for individuals who have experienced catastrophic injury or have chronic health care needs (p. 5).

The IALCP *Standards of Practice* (2015) note that use of a consistent, valid and reliable approach is necessary for research, data collection, analysis, and planning. The criteria for which pieces of data are collected in the preparation of a life care plan are guided by the *Standards of Practice* (2015). Specifically, these include utilizing a consistent method to determine the most appropriate option and cost for each recommendation contained within the plan through reliance on sources that are reasonably available to the individual for whom the life care plan is intended (IALCP, 2015).

Clinical experience plays an important role regarding what constitutes appropriate and available sources for costs of services (Johnson, 2015). *Life Care Planning Consensus and Majority Statements* (Johnson, 2015; Johnson, Pomeranz & Stetten, 2018) denote that life care planners are to assess past charges, not payments, to avoid the impact of various collateral sources. This includes awareness and avoidance of real or perceived discounts for medical and rehabilitation services and durable medical goods, which cannot be

reasonably guaranteed in the future for an individual, as these would constitute speculative costs (Johnson, 2012; Johnson, 2015; Johnson & Pomeranz, & Stetten, 2018).

Life care planners have conducted Summits since 2000, which have resulted in establishing best practices, as well as a generally-accepted and peer-reviewed *Majority and Consensus Statements* (Johnson, 2015; Johnson, Pomeranz, & Stetten, 2018). Summits are unique in that their proceedings are developed by practicing life care planners, concentrate on creating a consensus around best practices, and are based on 30 years of clinical experience, relevant research, and peer reviewed publications. *Majority and Consensus Statements* serve as reinforcement and reference for the work of life care planners. The following specific items from the *Majority and Consensus Statements* (Johnson, Pomeranz, & Stetten, 2018) pertain to costs and derivation of costs analyses, for which opining on the reasonableness of past medical charges is predicated:

59. *Life Care Planners shall research condition, resources, services and costs (p.36).*
76. *Life Care Planners shall utilize protocols for cost research (p. 37).*
77. *Life Care Planners shall gather geographically relevant & representative Prices (p. 37).*
78. *Life Care Planners shall utilize protocols for using local versus national resources (p. 37).*
88. *Life Care Planners shall evaluate the cost effectiveness of life care plans (p. 37).*
95. *The cost of private-hire home care includes caregiver compensation and associated expenses (p. 37).*
98. *Best practices for identifying costs in life care plans include:*
 - Verifiable data from appropriately referenced sources.*
 - Costs identified are geographically specific when appropriate and available.*
 - Non-discounted/market rate prices.*
 - More than one cost estimate, when appropriate (p. 38).*

The IALCP's *Standards of Practice* (2015) as well as *Consensus and Majority Statements* (Johnson, Pomeranz, & Stetten, 2018) serve to guide life care planners to yield clear and transparent work products, while supporting their unique qualifications to address the reasonableness of future costs and past charges.

The IALCP *Standards of Practice* (2015) also make clear the role of the life care planners' application of life care planning in a forensic setting. Item number 10 in the *Standards of Practice* specifies that should a life care planner engage in practice that includes legal matters, they may "Act as a consultant to legal proceedings related to determining care needs and costs in the role of an impartial advisor to the court" (IALCP, 2015, p.10). This Standard per Consensus Statement number 77 (Johnson, 2015) is particularly important when requests are made regarding the

reasonableness of future costs and past charges when geographical relevance may be vaguely and/or broadly specified, or encompasses multiple locations. For example, when an individual sustains an injury for which care is provided in the United States, but the individual lives abroad, it may be requested that the life care plan address reasonable past charges or future costs where treatment was provided. In this example, and consistent with *Standards of Practice* (Johnson, 2015, p. 10), the reasonableness of past charges and/or future costs would thus be addressed in the United States in order to serve as an impartial advisor to the court.

Application of a Medical Bill Review

In Washington State, the Pattern Jury Instructions (WPI) 30.07.01 (2017) for civil cases utilize specific language for the measurement of economic damages, elements of past damages, and medical expenses. The WPI (2017) applies to the reasonable value of necessary medical care, treatment, and services received to date and further clarifies that references to medical care, treatment, and services may be replaced by specific references to types of treatment or services (e.g., physician or hospital care, nursing care, etc.) (WPI, 2017). The WPI (2017) states that if sufficient evidence establishes a reasonable value of past medical care, treatment, and services, absent controverting evidence, the reasonable value for past medical care, treatment, and services should be listed as an undisputed line item under damages. Per the comment section of the jury instructions, the WPI (2017) further defines economic damages for juries in part as "objectively verifiable monetary losses, including medical expenses" (RCW 4.56.250(1)(a)).

As elucidated in the legal precedents described, to prove the reasonableness and necessity of past medical expenses, one may not rely solely on their own testimony as to the amounts incurred (*Nelson v. Fairfield*, 1952; *Torgeson v. Hanford*, 1914). Nor can one rely solely on medical records and bills alone (*Carr v. Martin*, 1950; *Patterson v. Horton*, 1997). Medical records and bills must be supported by evidence that the treatment and services for those bills were reasonable (*Patterson v. Horton*, 1997). It is vital to note that while life care planners are qualified to provide testimony regarding the reasonableness of charges or costs, they are not qualified to provide testimony to the reasonableness of treatment, unless they have an additional qualifying factor justifying this testimony. As the court states in *Hayes v. Wieber Enterprises, Inc.* (2001), the amount billed or paid is not itself the deciding factor in determining the reasonableness of a bill for services. Rather, it is whether the sum of the bills for services requested is reasonable. Generally, expert testimony will be necessary to establish the reasonableness and necessity of medical expenses as elucidated in *Hills v. King* (1965). *Hills v. King* (1965) highlighted that medical testimony was undisputable that medical expenses were reasonable and necessary resulting from the accident of question. The WPI (2017) further cite

Palmer v. Jensen (1997) and *Ide v. Stoltenow* (1955) when instructing juries on the manner for which economic damages, particularly the elements of past damages, should be derived.

Under these legal precedents, life care planners can be requested to provide an expert opinion on the reasonableness of medical charges or costs as it pertains to economic damages. Illustratively, a typical case for a life care planner may involve an evaluatee who has received an array of care including chiropractic treatments, massage therapy, physical therapy, MRI and CT scans, x-rays and epidural steroid injections, among other treatments, modalities, and diagnostics. While particular doctors may have the expertise to testify regarding the reasonableness of past charges, an attorney may need to call multiple doctors or rehabilitation professionals to substantiate the reasonableness of past charges for services and goods incurred in the full array of care provided. For instance, a psychiatrist may indeed know the reasonable cost for an established patient follow-up visit in their own or similar clinic for which to predicate an opinion for the reasonableness of past charges. However, the same psychiatrist may not have the relevant clinical experience or expertise to opine on the reasonable cost of fertility treatments, a visual field exam or endocrine studies for which to predicate the reasonableness of past charges for such services (International Association of Rehabilitation Professionals [IARP], 2019). In this example, for those items outside the psychiatrist's purview of day-to-day clinical work with patients, another professional may be required to testify to substantiate the reasonableness of past charges (IARP, 2019). This can also include charges associated with ergonomic and assistive technology, home modifications, leisure, exercise, and recreational needs, vocational services. Alternatively, one qualified life care planner with the appropriate education, clinical experience and expertise possesses a wide range of exposure to the reasonable costs from many facets of medical and rehabilitative care, thus adding efficacy and efficiency by conserving time and expense to all parties, including the court's (IARP, 2019).

Past Medical Bills in Practice

In many cases, disputes arise regarding the reasonableness of past treatments and services, but also their associated past charges for services. While physicians and other medical providers are necessary to define the reasonableness of treatments, goods and services; the reasonableness of all past charges related to one individual is often beyond their scope of practice or knowledge. A thorough medical bill review performed by an experienced and qualified life care planner can establish the reasonableness of past medical charges (Busch, 2018).

The following is a working example of a report regarding the review and assessment of the reasonableness of the past medical charges used by qualified life care planners.

"Thank you for referring Mr. Doe for a review of past medical bills for the reasonableness of the costs.

I have reviewed medical treatment records and billings from Dr. Chiropractor, Ms. Massage Therapist, Mr. Physical Therapist, Diagnostic Facility, Dr. Epidural Steroid Injector and Facility. It is not my intent to restate these records in their entirety for purposes of this report.

In performing this work I have followed accepted methodologies and standards of practice. As a Case Manager, Life Care Planner and Rehabilitation Counselor, I have looked to the medical community to define the necessity of the medical and rehabilitation treatment and services, equipment and other items. I have then ascertained the reasonableness of the charges associated with these services. My opinions are based upon my knowledge, training and experience combined with my clinical judgment.

Part of my job duties and clinic practice as a Case Manager, Life Care Planner and Rehabilitation Counselor involves the knowledge and assessment of the reasonable value and costs for various medical and life care goods and services. This requires that I keep current on the costs for such goods and services in this region. I use my knowledge and experience when approving or recommending various medical and rehabilitation services, goods and equipment for governmental agencies and private clients. I am also retained to provide my expertise on the reasonable value of medical goods, services and bills in the forensic arena, and have been qualified and accepted as an expert on this subject area by multiple courts.

Experts in my professional area of expertise routinely rely upon our day to day work including clinical communications with the billing departments of local providers, regional data and publications, as well as a particular patient's medical records, bills, bill summaries and testimony of medical personnel, in formulating opinions on the reasonable value of medical services in a particular case and time period.

By way of brief summary I have researched the costs of medical and rehabilitation treatment and services, equipment and other needs described in the bills noted above to determine the reasonableness of the charges. I am commenting on the reasonableness of the charges, not the medical necessity of the treatment. The reasonable value of past charges are identified and totaled as follows:

<i>RECORD/DATE</i>	<i>TOTAL</i>
<i>Dr. Chiropractor, (1/3/00 – 4/1/16)</i>	<i>\$</i>
<i>Ms. Massage Therapist, (3/5/00 – 8/19/12)</i>	<i>\$</i>
<i>Mr. Physical Therapy, (7/22/00 – 4/1/02, 7/6/16 - 12/24/16)</i>	<i>\$</i>
<i>Diagnostic Facility (5/10/06, 3/28/08, 6/6/09, 9/4/11)</i>	<i>\$</i>
<i>Dr. Epidural Steroid Injector and Facility (12/12/08)</i>	<i>\$</i>

I have reviewed the past charges of medical and rehabilitation treatment and services, and other needs described in the bills noted above to determine the reasonableness of the charges. The total value of these services is \$. These charges are reasonable and consistent with the charges of other, similar, medical providers during these same time periods. These charges are consistent with the charges in Life Care Plans coordinated with other evaluatees during these same time periods.

Conclusion

An experienced and qualified life care planner possesses the specialized and technical knowledge, training and experience to provide expert opinion as to the reasonableness of past charges for medical services, supplies, equipment, and other related expenses. Because life care planners are routinely involved with both researching costs of care and reviewing historically provided charges for services, life care planners possess a unique skill set that qualifies us to opine about costs of medical goods and services in the context of past medical charges. Life care planners utilize a combination of education, experience in daily clinical practice, expertise and specialized knowledge in performing our work. Life care planners are guided by a generally accepted, peer-reviewed and published methodology. Adherence to peer reviewed life care planning literature, as well as knowledge of precedent set by the courts, provides foundation for life care planners to testify as experts in matters related to the reasonableness of past charges and future costs. Life care planners are permitted to provide information and opinions as requested, and specific to the court's requirements, in determining the reasonableness of past charges and future costs.

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