



# THE ReCOREder

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***Editors Note: Happy New Year!***

*As much as I enjoy the holidays, I'm always glad to get things back to normal. I like routine. I like order. So in keeping with that sentiment, included in this issue are the top legal issues for 2007. These came from the "Health Care Collector" magazine from December 2007. What would you do if an officer of the law walked into your office asking for information on a patient? Do you know what your rights and obligations are? These obligations are outlined in this article on page 2. As always, we welcome your comments and suggestions. Please email them to [support@corerecovery.biz](mailto:support@corerecovery.biz).*

## ***Learn to Listen to Debtor Responses***

No matter how much training a collector receives, the one task management *cannot* teach is the "Art of Listening."

What's so important about listening? In addition to the fact that we listen more than any activity (except breathing), anyone who works in the collection business knows listening is very important. I believe most call scripts are designed to ask debtors a series of questions that force the collector to listen to the debtor's responses. Human nature necessitates that people need to be heard and understood. Therefore, collection efforts will improve if the debtor senses he or she is being *heard* rather than talked down to. The collector should work to create Win/Win outcomes based on what he/she presumes the debtor thinks, needs or wants.

As a rule, we listen with only 25 percent of our potential; the remaining 75 percent is spent ignoring, forgetting, distorting or misunderstanding what we are supposed to be hearing. Being a good listener takes effort and requires collectors to stay focused on the call. Collectors who stay focused and allow the debtor to be heard will retain information that should help in the outcome of the call.

When you hear what the debtor's needs are, collectors can document these needs in the account notes. Good listeners have no problem

documenting notes about money sources, follow-up dates and payment plans. Not-so-good listeners have very little notes and unpredictable collection results.

How do you know if you are a good listener? Ask yourself these questions: How often do I daydream? When do I catch myself interrupting? What easily distracts me? Why do I find myself jumping to conclusions? These are indicators of poor listening habits.

Listening involves four steps: hearing, interpreting, evaluating and responding. To make a successful call, collectors need to interact with the debtor using these steps. As you listen to the debtor, ask questions to clarify, respond to answers and paraphrase or restate to summarize in order to get the debtor's agreement. Use verbal prompts to get information and use psychological pauses to allow the debtor to respond. Remember: Controlling the conversation does not mean you do most of the talking.

Does it seem that no one has any patience anymore? Collectors eager to talk or cut someone off because they are talking too slow – or when the debtor is being abusive – need to learn more self control. We are in the collection business, and being yelled at or even sworn at will happen.

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## Top Issues from 2007

### *Waiving Deductibles*

We certainly support our military forces and although it may be tempting to waive deductibles and co-payments of TRICARE beneficiaries—our uniformed services personnel and the dependents—it is best to resist that temptation. The US government policy states that uniformed services beneficiaries who use TRICARE Standard and Extra are responsible, under law, to pay annual deductibles and cost-shares associated with their care. The law prohibits health care providers from waiving TRICARE beneficiary deductibles or cost-shares and requires providers to make reasonable efforts to collect these amounts.

Health care providers who offer to waive TRICARE deductibles and cost-shares or who advertise that they will do so may be investigated for program abuse and suspended or excluded as authorized providers. According to Rose M. Sabo, Director, TRICARE Program Integrity, TRICARE Management Activity, “TRICARE prohibits any scheme designed to waive a patient’s deductible or cost-share.”

One type of scheme comes in the form of a supplemental insurance program which covers co-payments or deductibles only for items or services provided by the entity offering the insurance. These programs can be identified when the “insurance premium” paid by the beneficiary is insignificant and the premiums so low that they are not based upon actuarial risks, but instead are a sham used to disguise the routine waiver of co-payments and deductibles.

### *Combating Denied Coverage*

It happens fairly often—you receive confirmation of coverage for a procedure. Then, after the procedure is done and the claim is sent, the insurance company denies coverage. What can you do?

Because the patient is ultimately responsible for his or her own bill, the health care providers’ remedy is to pursue the patient for payment in the event the insurance company does not pay. The patient would have the obligation to pursue the insurance company in the event of misinformation given either to the patient or the provider.

- But, while the patient is responsible for the bill, the reality is he or she might not be financially prepared to pay it. You will likely want to appeal any denial from the insurance company prior to attempting to collect from the patient. Of course, there will always be denials, but one way you can protect yourself from denials, is to have a verification process in place. There are ways you can protect yourself from denials, including the following:
- Be sure your payer contract stipulates that if you receive verification from them, you have the right to be paid for the services;
- Develop and follow procedures for deciding which patients should be verified—for instance, all new patients at the first visit, with follow-ups every three months;
- Have one or more staff members who focus solely on insurance verification, if possible; and
- Most payers now offer information online. Make use of this option.

Even with all of these things in place, most providers take a “fingers crossed” attitude toward getting paid on time for the services they provide. And, while it has been estimated to cost \$10 to \$20 per call to verify benefits (with the time spent on hold, etc.) it is still worthwhile.

### ***Charity Case Comes into Money***

You provided services to a patient as the result of an accident. The patient was unable to pay for those services and qualified under your charity care policy. As a result, you wrote off the account. Subsequently, you discover that the patient received a settlement check for that same accident claim.

You don’t have a signed assignment from the patient indicating that you should receive those funds—and the patient does not seem inclined to pay. In addition, your charity forms do not specify that the patient must reimburse you in the event of a settlement. Now, the patient’s attorney is holding the funds. Do you have any legal recourse? Can you avoid this situation in the future?

Because the patient’s attorney has the funds and if the attorney knows that there are medical bills, you may be able to negotiate some kind of payment. That attorney had to present your bill as part of the settlement; therefore, the attorney should be willing to discuss a payment with you.

Some providers have inserted a phrase within their charity care forms that indicates a change in the patient’s ability to pay will change the charity care status. A statement such as: “Failure to disclose all means of income (this would include the settlement) make the patient ineligible for charity” could give you a legal leg to stand on in this type of situation.

***Important:*** Consult with your legal counsel if you decide to put this language on your charity forms. You will also want to verify that it does not run counter to state or local laws.

### ***Disclosing PHI to Others***

What would you do if someone claiming to be an officer of the law walked into your office asking for information that he or she needed to locate a missing person?

How would you respond? Do you know what your rights and obligations are? Do your employees know?

Under the Privacy Rules of the Health Insurance Portability and Accountability Act (HIPAA), a health care provider or covered entity may disclose protected health information (PHI) in response to a law enforcement official’s request when the information is needed to identify or locate a suspect, fugitive, material witness, or missing person. The regulations limit the PHI to the following items.

- Name and address;
- Date and place of birth;
- Social Security number;
- Blood type and RH factor (but not DNA, DNA analysis, dental records, or typing, samples, or analysis of body fluids or tissues);
- Type of injury;
- Date and time of treatment;
- Date time of death (if applicable); and
- Distinguishing characteristics.

***Caveat:*** Don’t just hand over protected information to anyone purporting to be an officer of the law. Verify the individual’s credentials before you give him any information.



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However, no matter what happens, a good listener should stay calm and use good listening skills. Once you hear the debtor's story, react accordingly. Good listeners collect all the information before they form an opinion or jump to judgment.

The best collection call is a call where there is a connection between the collector and the debtor. If the collector is using his listening skills, he should be able to gather pertinent factual information about the debtor. The debtor will gain the collector's trust and will follow through on commitments promised because the goal is achievable.

*“By concentrating, staying open, asking questions, avoiding arguments and listening openly, we can stay in control of the conversation and bring both parties to a Win/Win outcome.”* This phrase should be the job description of a collector. By listening more than talking, a collector will gain control of the conversation and the knowledge of how to handle the outcome of a call. The debtor will appreciate working with a professional who treats him/her with understanding and respect. In the end, no matter what happens, the call ends in a Win/Win result, all because the collector is a good listener.

## Mistaken identity

*A shepherd was driving his flock across the road when a car stopped nearby. The driver got out and said, “I’ll bet you \$100 against one of your sheep that I can tell you exactly how many sheep are in this flock.”*

*The shepherd took the bet, and the driver said, “Exactly 521.” The shepherd nodded in surprise and the driver picked up an animal and began walking back to his car.*

*The shepherd cried out, “Give me one chance to win back that animal. I bet I can guess your exact occupation.”*

*The driver agreed and the shepherd said, “You’re a mathematician working for the government.”*

*The driver was shocked and said, “You’re right. How did you guess?”*

*The shepherd said, “Put down my dog and I’ll tell you.”*



**Sources:** “Learn to Listen to Debtor Responses”, by Bob Dunham, *Collection Advisor*, October 2007

“Top Issues from 2007”, *Health Care Collector*, December 2007

**Disclaimer:** This information is not presented to be used as legal or professional advice on specific facts or matters. Readers with specific questions should refer them to their own attorneys for guidance.