



THE FLORIDA HEALTHCARE LAW FIRM

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GETTING STUCK IN THE BANKRUPTCY PROCESS IS NO FUN FOR PHYSICIANS

By:
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Occasionally, physicians provide medical services to or on behalf of people or an entity that files for bankruptcy. For instance, a radiology group may provide services to an imaging center, be owed a huge sum of money, and then the imaging center files for bankruptcy protection. Being stuck in that process is no fun, but physicians need to know their rights and obligations.

Any payment made by a party indebted to the physician after bankruptcy has been filed is considered a recoverable post petition payment under the bankruptcy code. That is, if payment is made after bankruptcy is filed, then the physician would owe the money back to the bankruptcy estate. Additionally, even payments made within 90 days of the bankruptcy filing could be considered to be a preferential transfer and therefore voidable under the bankruptcy code. That is, even payments made before bankruptcy is filed could be deemed and improper and be owed back to the obligated party.

So what do you do after the party that owes you money has vanished under the bankruptcy process? What do you do after you have received an improper payment? It is actually very simple. A claim needs to be filed with the bankruptcy court, and this is not an extremely expensive or highly technical proposition. Obviously, the doctor needs to make a cost benefit choice of whether it makes sense to engage someone to do this simple task, since there may be many "secured" debtors that have filed that would be paid before the doctor would be paid. This is clearly, however, one of the unfortunate and growing incidence of our present economic situation. There are a couple ways to contract around an obligated party. For example, contracting directly with the owner of a business to which medical services was provided, rather than the bankrupt company, but this needs to be considered before services are provided.

Mr. Cohen is the founder of the Delray Beach law firm of The Florida Healthcare Law Firm, which specializes in representing physicians and other clients in healthcare business/corporate matters. He is also founder of Maverick Medical Claims Solutions, which gets clients paid by managed care. He is Board Certified by the Florida Bar as a specialist in Health Care Law and routinely represents doctors in health care business matters. Mr. Cohen may be reached by calling (888) 455-7702.