Top Indemnity-Paid Claims by Location & Allegation Type

Claims closing with indemnity payments are more frequent in the outpatient setting (which includes the Emergency Department; Figure 1), but inpatient claims are, on average, about 20% more expensive.

Across all settings, claims arising out of Labor & Delivery units and Radiology/Imaging departments are 14-17% more likely to close with an indemnity payment (Figure 2).

*Indemnity limited throughout to < $1M
Labor & delivery claims are also the most expensive with payments at 1.6 times the average. Ambulatory surgery claims tend to be slightly less expensive than the average (Figure 3).

**Figure 3. Average Indemnity by Locations with Top Claim Volume**

**Figure 4. Top Indemnity-Paid Allegations by Location**

- **Labor & delivery**
  - Delay in treatment of fetal distress

- **Inpatient & ambulatory surgery**
  - Surgical performance

- **Emergency, radiology/imaging & office/clinic**
  - Diagnostic-related

- **Patient room**
  - Failure to diagnose a developing disease process or surgical complication
  - Management of post-operative patients
Risk factors, complex issues which impact the patient’s outcome and often the decision to settle claims, are numerous and varied. The most frequent factors for this data set (Figure 5) can be broken down into sub-factors as noted below the chart.

**Figure 5. Top Risk Factors: Comparison of Paid vs. Non-Paid Claims**

- **Clinical judgment**: clinical decision-making, assessment of patients
- **Technical skill**: surgical/procedural performance
- **Communication**: among providers as to the clinical status of the patient; also patient education and informed consent discussions
- **Documentation**: inadequate, missing or delayed documentation of pertinent information which would aid in decision-making
- **Administrative**: failure to follow policies/procedures set up to ensure delivery of safe patient care
- **Behavior-related**: patient dissatisfaction and noncompliance with treatment
- **Clinical systems**: failure of the process in place for test results tracking and reporting
- **Clinical environment**: includes ‘off shift’ scenarios (nights, weekends, holidays) when the ‘normal’ flow of care may be affected by staffing changes
Key points: While clinical judgment will always pay a role in claims, it is the failure to communicate important information to other providers or patients, failure to document pertinent details that could assist in care or lend defense to a claim, failure to follow your own policies and procedures, and failure to follow up on test results or other necessary care, which lead to the most frequent indemnity payments. To further drive this point home, consider that indemnity-paid claims are nearly two times more likely to have documentation issues as those closed without payment (Figure 5). Recognizing and understanding these factors, and strategizing how to reduce the occurrence and convergence of them, can result in safer patient outcomes and may reduce the filing of malpractice claims.

Figure 6 displays the most frequent risk issues by top location for indemnity-paid claims.

**Figure 6. Top Risk Factors by Location**

<table>
<thead>
<tr>
<th>Locations</th>
<th>Top risk sub-factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor &amp; delivery</td>
<td>Clinical decision-making: timing &amp; choice of delivery method</td>
</tr>
<tr>
<td>Inpatient surgical suite</td>
<td>Known complications &amp; choice of procedure</td>
</tr>
<tr>
<td>Emergency</td>
<td>Delays in ordering diagnostic tests &amp; inadequate assessments resulting in premature discharge from the ED</td>
</tr>
<tr>
<td>Radiology/Imaging</td>
<td>Misinterpretation of diagnostic imaging</td>
</tr>
<tr>
<td>Patient room</td>
<td>Failure to recognize/react to patient symptoms/diagnostic test results</td>
</tr>
<tr>
<td>Office/clinic</td>
<td>Delays in ordering diagnostic tests &amp; referring patients for specialty consultation</td>
</tr>
<tr>
<td>Ambulatory surgery</td>
<td>Known complications &amp; poor technique</td>
</tr>
</tbody>
</table>

For access to a variety of publications addressing these and other topics, link to the Risk Management Tools & Resources pages on MedPro Group’s website.

**Data Source**

MedPro Group closed claims data, 2008-2017
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