



Closed Claim Study

Case Work-Up Results in Denial of Patient's Cataract Claim

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ALLEGATION

Negligent performance of cataract surgery resulting in capsular bag dialysis.

DISPOSITION

Claim was denied and patient did not pursue litigation.

Case Summary

This elderly patient presented to an OMIC insured with complaints of decreased vision OU. Upon examination, the patient's vision was CCVA 20/100 OD and 20/50 OS. The diagnosis of a 3+ senile, nuclear, and brunescant cataract was made OD>OS. Informed consent was obtained and an extracapsular cataract extraction was planned OD. Two weeks later, the OMIC insured performed an extracapsular cataract extraction with an anterior vitrectomy and anterior chamber IOL implant OD. The procedure was complicated by a capsular bag tear that extended rapidly. On postoperative day 1, the patient was stable with eye pain OD with SCVA 20/100. The patient also complained of seeing a lot of "trash" floating around in the eye. By postoperative day 3, the patient's visual acuity was unchanged with some continuing pain OD. The patient informed the insured that he was extremely unhappy with his surgical outcome and described his vision in the right eye as "looking through a haze with tiny bubbles."

The patient refused to return to the insured, and on postoperative day 6, self referred to a retinal specialist due to his concerns about decreased visual acuity and a possible retinal tear post cataract surgery. The patient relayed to the retinal specialist that he had heard the OMIC insured state during the cataract surgery that the retina was torn. The retinal specialist diagnosed a vitreous hemorrhage that was likely to resolve and no retinal tears. Secondary corneal edema was diagnosed, but it was noted that it should resolve as the IOP improved. The patient was diagnosed with ocular hypertension OD and treated with Cosopt. A cataract fragment was noted inferiorly; however, it appeared to be cortical so observation was recommended.

Three months postoperatively, the pressures in the patient's right eye had returned to normal and the vitreous hemorrhage and corneal edema had resolved. The cataract fragments in the right eye had also resolved and visual acuity was corrected to 20/25+1.

Analysis

After his vision improved, the patient wrote to the OMIC insured demanding compensation for the complicated cataract procedure and asked to speak with the insured's insurance carrier. A representative of OMIC's claims department telephoned the patient and requested release of all his ophthalmic medical records so a review could be performed by a board certified ophthalmologist. The patient was informed that no settlement negotiations would take place prior to an expert review and if the review was supportive of the ophthalmologist's care, the claim would be denied. The patient consented and his records were obtained from all treating ophthalmologists and sent to a board certified ophthalmologist for a standard of care review. The expert reviewer determined that there was absolutely no deviation from the standard of care by the insured. The OMIC claims representative telephoned the patient to discuss the points the reviewer had raised in defense of the insured and followed up with a letter denying the claim. The patient did not pursue the matter, and the case was closed without any type of indemnity payment and with minimal expense to OMIC.

Risk Management Principles

The surgeon in this case reacted properly to a known complication of cataract surgery and the patient ended up with good visual acuity. However, even with a poor visual outcome, the ophthalmologist's approach should remain the same. If this matter had not had the benefit of a supportive standard of care review and the surgeon had not acted appropriately, a small settlement or refund of some of the patient's out-of-pocket costs might have been recommended. Giving a patient a refund or agreeing to settle a case for a small amount is not an admission of liability, and such settlements can be arranged so they are not reportable to the National Practitioner Data Bank. Often, a partial refund or small settlement will avoid months or even years of litigation. When a small settlement or refund for services is negotiated between an OMIC insured and a patient, OMIC may recommend that the patient sign a full and final release of all future claims. This is not always necessary though, so a discussion with the Claims Department will help identify the best way to handle a particular situation. See the **Hotline** article.