

Don't clench your fist while having blood drawn, warns clinical scientists Vanessa R. Thurlow and Ian R. Bailey. Clenching can cause excess release of potassium from skeletal muscles, which may prompt your doctor to prescribe unnecessary tests or treatments. High serum potassium is a sign of kidney disease and heart problems. Also, high potassium may be a side effect of medication—so your doctor might stop a medicine or reduce the dosage. *Better:* Close your hand lightly when the needle is being inserted—then open your hand as blood is being drawn.

Vanessa R. Thurlow and Ian R. Bailey, Fellows of the Royal College of Pathologists, department of chemical pathology, Princess Royal University Hospital, Farnborough, Kent, United Kingdom, and coauthors of a study published in *Annals of Clinical Biochemistry*.

Small-cap stocks have begun to outperform large-caps, in contrast to last year, when investors were seeking safety in large-company stocks, we hear from strategist James W. Paulsen, PhD. *Examples of strong small-cap funds:* Keeley Small Cap Value Fund (KSCVX), which specializes in companies undergoing corporate restructurings. It is available in a no-load (no sales fee) version through some investment advisers. *Also:* T. Rowe Price Small-Cap Value Fund (PRSVX), which reopened to new investors in May.

James W. Paulsen, PhD, is chief investment strategist at Wells Capital Management, Inc., based in Minneapolis. www.wellscap.com

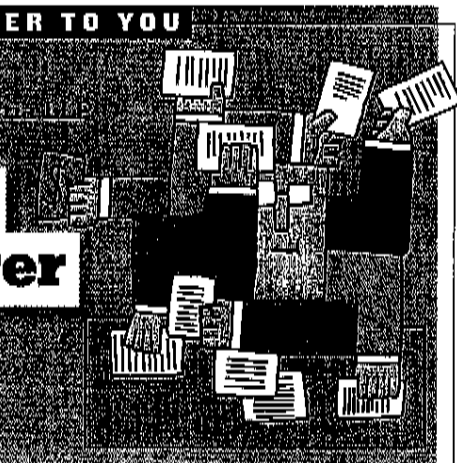
Too much sleep increases stroke risk among older women, reports Sylvia Wassertheil-Smoller, PhD. *Recent findings:* Postmenopausal women who habitually sleep nine hours or more a night have a 70% higher risk for ischemic stroke—the most common type of stroke—than women who regularly sleep seven hours a night. However, postmenopausal women who sleep less than six hours a night have a 14% elevated stroke risk. *Self-defense:* Take steps to lower risk factors for stroke, especially high blood pressure.

Sylvia Wassertheil-Smoller, PhD, is a professor, department of epidemiology and population health, Albert Einstein College of Medicine of Yeshiva University, Bronx, New York, and coauthor of a study of 93,175 women, ages 60 to 79, published in *Stroke*.

MORE POWER TO YOU

William M. SHERNOFF, JD
Sheriff Bidart Darras & Echeverria LLP

How to Get Your Health Insurer To Pay Up



You pay your health insurance policy premiums without fail—but that doesn't mean your insurance company will be as reliable when you make a claim. It is very possible that your claim will be improperly denied.

Very few people bother to fight these denials. That's unfortunate, because policyholders who intelligently contest health insurance claims denials often get them reversed.

If a seemingly valid health insurance claim you make is denied in whole or in part, ask the insurance company to send you a full explanation of why it was denied (or accepted for only a lesser amount). Then follow these steps to get your claim covered.

STEP 1: Enlist support. If you have a group health policy, ask the group benefits administrator to help you contest the denial. If you purchased an individual policy through an independent insurance agent, ask this agent to help. Not only do benefits administrators and insurance agents have experience with these matters, they have clout with the insurers. An insurance company might relent to an administrator's or agent's request to pay a claim simply to avoid losing future business.

STEP 2: Write a letter to the insurer requesting a formal review of the denial and explaining why you believe it is incorrect. Get the name of the person to write to from your benefits administrator or agent. Send this letter via certified mail, return receipt requested.

Cite the insurance company's own literature if it seems to contradict the argument made in the denial. If the

policy literature is vague or confusing—it often is—do not accept the insurance company's position that it means what it says it means. In most states, the courts interpret insurance policy provisions as a layperson would understand them, not as a corporate lawyer would interpret them.

Example: Your insurance company refuses to pay for your home care following a serious accident, arguing that the care you received was "custodial" care, which is not covered, rather than "skilled" care, which is. If you received what the average person would consider skilled care and your policy does not specifically define these terms in a way that defends the insurer's position, the law is likely on your side.

Some common reasons for claims denials and possible responses...

The procedure was not medically necessary. Ask your doctor to write a letter to the insurer explaining why the procedure was necessary in your case.

The procedure was experimental. Ask your doctor to write a letter to the insurer noting that Medicare or other insurers cover the procedure or citing statistics showing that it is widely used.

There was a filing error, such as ▶

Bottom Line/Personal interviewed William M. Shernoff, JD, senior and managing partner of the law firm Shernoff Bidart Darras & Echeverria LLP, Claremont, California. The firm represents policyholders who have been treated unfairly by insurers or HMOs. Shernoff established the consumer law program at the University of Wisconsin, Madison, and is author of several books, including *Fight Back and Win: How to Get HMOs and Health Insurance to Pay Up* (Capital). www.sbd-law.com





Disease Fighter

Eric S. Ende

Charles River Laboratories International, Inc. (CRL) helps drug



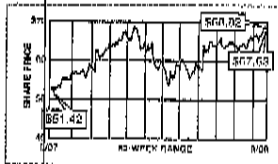
companies discover and develop new medicines by breeding rodents

for specific purposes, such as diabetes, obesity and cardiovascular disease research. The firm

has a 40% worldwide market share and high operating margins—more than 30%—in its rodent business. It serves pharmaceutical firms, government agencies and academic institutions—all of which are outsourcing many parts of their research, such as toxicology, which Charles River handles as well.

Fiscal year: December. Earnings per share: 2009 est./\$3.35...2008 est./\$2.95...2007/\$2.62.

Eric S. Ende is co-portfolio manager of the \$316 million FPA Perennial Fund and the \$327 million FPA Paramount Fund, Los Angeles.



Energetic Earnings

Jon Bull, CFA

Devon Energy Corporation (DVN) is a major natural-gas producer. Natural



gas is the cleanest-burning fossil fuel, and almost all of the natural

gas used in the US is from North America—making this fuel more politically acceptable than oil,

much of which is imported. Devon's price-to-earnings ratio (P/E) is relatively low because Wall Street assumes natural-gas prices will come down—but even if they do, Devon's earnings will continue to grow.

Fiscal year: December. Earnings per share: 2009 est./\$13.86...2008 est./\$12.79...2007/\$7.44.

Jon Bull, CFA, is senior managing director of First Republic Investment Management, Santa Barbara, California, which manages \$5.4 billion.

Bottom Line/Personal's experts have beaten their respective benchmarks over the most recent five-year period or longer.

We ask each contributor to choose one stock that he/she thinks has significant appreciation potential over the next 12 to 24 months.



►► a missed deadline. In most states, the insurer cannot legally deny your claim because of a technical filing mistake unless it can show that it was harmed by this mistake.

The bill exceeds "reasonable and customary" charges. Ask your doctor if there were special circumstances in your case that would justify higher costs. If there were, have him/her write a letter to the insurer describing them. Another option is to call other medical facilities in the region and ask what they charge for the procedure. Insurers often rely on old data or data from other parts of the country when they set these "reasonable and customary" estimates. If you can establish that your doctor did not charge more than others in your region do, the insurer might back down.

STEP 3: If your letter doesn't work, repeat your argument in a letter to the manager or supervisor of the insurance company's claims department. Get the name of the individual from your claims representative. Work your way up the corporate ladder. You may need to convince only one person to agree with you for your

denial to be reversed.

Remain calm and polite. Contesting an insurance claim denial is frustrating, but insurance company employees are more likely to take your side if they like you. Write down the name of any person you speak to, as well as the date and time and what you were told.

STEP 4: Contact your state's department of insurance, and ask what it can do to help you. The quality and power of state insurance departments vary significantly. Some help policyholders stand up to unfair insurance company practices or conduct independent reviews of denied claims.

Example: California's Department of Insurance and Department of Managed Health Care offer "independent medical reviews" of denied health insurance claims. Approximately 40% of those reviewed are decided in the patient's favor.

Simply involving your state's department of insurance may be enough to convince an insurer that it is easier to pay your claim than fight it.

STEP 5: Call the media. Local TV news programs and newspapers love stories about people being treated

MORE from William M. Shernoff, JD

If Your Insurance Company Tries to Drop You

If you have an individual health insurance policy, *not a group health plan*, having a claim unjustly denied is not the only risk. If you develop an expensive health problem, your insurance company might attempt to retroactively terminate your coverage, a process known as "rescission."

When you file a major claim, your insurer could have an investigator examine your original policy application. If the investigator finds even the smallest error, the insurer may use this as an excuse to rescind your policy even if the application error has nothing to do with the current claim.

Example: Blue Cross of California canceled the policy of a woman who needed surgery to remove her gallbladder and refused to pay her \$60,000 medical bills. The insurer argued that the woman's husband had failed to note on the couple's original policy

application that he once had an elevated cholesterol reading.

States are beginning to enact rules to protect policyholders from this tactic, but for now, the danger remains. To minimize your risk...

Take your time with health insurance applications. If possible, obtain a copy of your health records from your doctor and use these to fill out the form, rather than rely on your memory.

Contact the insurance company for clarification if a question on the application is confusing. Don't provide an answer until you truly understand the question.

Include your medical providers' contact information on the application form. If the insurer later attempts to rescind your policy, you can argue in court that you didn't intentionally hide anything and that the insurer should have contacted your doctors.

unfairly by big health insurance companies. Insurers despise this bad press and sometimes relent when reporters call. Determine which local reporters cover human-interest stories of this sort, contact them and ask if they would be interested in your story.

STEP 6: Go to court. If your claim is in the low four figures or less, it might qualify for small-claims court. If it is larger, you will need to hire an attorney. If your case appears strong, there will be plenty of attorneys willing to take it on a contingency basis (they get paid only if they win or settle).

Hiring an attorney makes the most sense when the insurance company's unfair claim denial has interfered with your medical treatment and endangered your health. Juries often award substantial damages when this occurs.

Next issue: How to fight back when a Medicare claim is denied.

October Checklist

■ **Prepare for winter:** Have the chimney and furnace inspected and cleaned. Refasten or replace weather stripping around windows, doors and vents. Clean gutters after leaves are down. Check the car battery, brakes, defroster, heater and wipers.

■ **Benefits enrollment time:** Review 2008 health-care expenses, including out-of-pocket costs, to determine how much to contribute to your 2009 flexible spending account. Investigate insurance options thoroughly. Don't choose by premium size alone.

■ **National Apple Month:** Apples are linked to decreased risk for asthma, cancer (especially lung cancer), cardiovascular disease and diabetes. *Tasty recipes:* www.usapple.org/consumers/recipes/index.cfm

■ **Breast Cancer Month:** Annual mammograms are recommended for women over 40—earlier if at high risk.

■ **Safer Halloween:** Attach strips of reflective tape to costumes. Do not leave candle-lit pumpkins unattended. Remove clutter from steps and yard so that kids do not trip.

LESS FOR UNCLE SAM



Taxpayer Victories

For investors,
entrepreneurs and
others

James Glass, Esq.

These recent taxpayer court victories over the IRS may help you cut your own taxes...

YOUR RIGHTS AS A TAXPAYER

A couple seeking to avoid an IRS collection action for a particular year's tax took their case to the IRS Appeals Division. The appeals officer (AO) ruled against them, citing the fact that IRS records showed they also owed back taxes for two other years. The IRS then moved to collect the taxes for those years. The couple went to IRS Appeals again, and the case went to the same AO, who ruled against them again.

The couple then claimed that the AO was biased against them at the second hearing and that the Tax Code specifically requires that an AO be "impartial" and have "no prior involvement" with the tax at issue in an Appeals hearing.

IRS position: The AO had been fair and had played no role in the assessment of the tax at issue in the second hearing, so he had had no prior involvement with it.

Court of Appeals: The AO had discussed the second tax bill at the first hearing, and at the second hearing, he had told the taxpayers, "You have not paid your taxes for the last four years, and it looks like you are now adding a fifth." This indicated that the AO's opinions formed at the first hearing had carried over to the second—so the couple was entitled to a new hearing with a different AO.

Case: *Louis A. Cox, CA-10, No. 06-9004 [2008].*

LESSON: You are entitled to fair

treatment from the IRS. To learn your rights, read IRS Publication 1, *Your Rights As a Taxpayer*, and IRS Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree*. Both are available free at www.irs.gov or by calling 800-TAX-FORM.

FAMILY BUSINESS

Ralph Frahm was the owner of a business that had only one employee, his wife. He chose an employee benefit plan that provided medical insurance coverage for employees and their family members—including him as the spouse of an employee, his wife. The business expense deduction obtained for the insurance this way was better than a normal medical expense deduction because it covered the full amount of the insurance cost. And because the deduction was taken against business income, it also reduced Frahm's 15.3% self-employment tax.

IRS position: The business could deduct only the portion of the insurance premiums that covered the wife's medical expenses, not the part covering Ralph. This is because a self-employed person can't claim business deductions for his/her own personal expenses, such as health insurance.

Tax Court: Self-employed people can deduct the same business expenses as any other kind of business. Employee health benefits are a legitimate business expense, and health coverage for the spouses of employees is typical in such coverage. ▶

James Glass, Esq., is a tax attorney based in New York City and a contributing writer to *Bottom Line/Personal*.

