

# 1199SEIU Benefit and Pension Funds Sends Mass Mailing for Refund of Facility Fees

## FEATURED ATTORNEY



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Over the past several days, we have fielded calls from multiple clients regarding a refund demand from 1199SEIU Benefit and Pension Funds (“1199SEIU”) for all facility fees paid to their accredited office based surgical facility. These facility fee refund requests are especially distressing to the physician because, as an ERISA plan, 1199SEIU is not bound by New York’s two (2) year look back statute. Accordingly, the refund demands may extend to payments made as far back as (6) years from the date of the refund demand.

Our office has successfully represented multiple facilities served with refund demands for facility fees. While the carriers have expressed various and alternating theories to support their repayment demands (theories which often change mid-discussion), at the heart of almost all of the refund demands has been an allegation that the facility has improperly billed the facility fee and/or engaged in some type of fraudulent billing scheme which misled the carrier into paying the facility fee. The carrier typically ignores the fact that it has failed to do its own “due diligence” prior to making payment, as well as the fact that the services were provided by the facility to its members. It appears, at this time, that 1199SEIU is making similar assertions, claiming that the facility bills were improper in and of themselves, as well as improper under the terms of various letter agreements/contracts between 1199SEIU and the provider.

While each matter is handled based upon its own circumstances and nuances, based upon our experience and our research we believe there are substantive defenses to the refund demands from 1199SEIU, and we have created an effective framework for representing any Office Based Surgical facility that has been served with a demand for repayment of facility fees. If you would like further information on this topic, please contact [David T. Verschell, Esq.](#) at (516) 328-2300 or your attorney contact at our firm.