



EDPMA Advocacy Successes in 2020

COVID-19 Provider Relief Successes

- 1) In addition to hospitals, independent physician groups are eligible for COVID-19 provider relief as EDPMA requested.
- 2) Initial tranche of provider relief was distributed quickly based on a simple formula based on 2019 Medicare revenue as EDPMA requested.
- 3) Second tranche (based on 2% of 2018 revenues) provided additional funds and transparency as EDPMA requested.
- 4) Third tranche (88% of reported losses over 6 months) breaks the previous 2% cap on relief and provides more relief to providers, like emergency physicians, who have more losses and expenses as EDPMA requested.
- 5) Allows providers to calculate losses by comparing 2020 actual revenue to budgeted revenue.
- 6) COVID balance billing ban was limited as EDPMA requested. HHS originally appeared to ban balance billing for actual and "possible" COVID-19 cases (all cases). After EDPMA wrote HHS, HHS changed the language to actual and "presumptive" COVID-19 cases. Further, HHS guidance clarified that "Not every possible case of COVID-19 is a presumptive case."
- 7) HHS clarified circumstances when balance billing for COVID care is appropriate as requested by EDPMA. HHS issued an updated FAQ stating that "if the health insurer is not willing to [reimburse out-of-network providers], the out-of-network provider may seek to collect from the patient out-of-pocket expenses, including deductibles, copayments, or balance billing, in an amount that is no greater than what the patient would have otherwise been required to pay ... an in-network provider."
- 8) HRSA guidance allows acceptable diagnosis in any position as EDPMA requested.
- 9) HRSA clarified in writing that claims can be paid even when test results were unavailable or came back negative assuming all other requirements are met as EDPMA requested.
- 10) Commercial insurers not only cover COVID-19 testing (including professional services), as required by law, but also cover related diagnostic services, per CMS guidance, without cost sharing as EDPMA requested.
- 11) Blanket 1135 EMTALA waiver was approved as EDPMA requested.
- 12) Small Business Administration clarified that independent contractor physicians are eligible for PPP as EDPMA requested.

Federal Surprise Billing Successes

- 1) Takes patients out of the middle of billing disputes as EDPMA requested.
- 2) Includes Independent Dispute Resolution (IDR) as EDPMA requested.
- 3) Removes monetary threshold for IDR as EDPMA requested (proposed \$750 threshold would have excluded 95% of emergency claims).
- 4) Prohibits mediator from considering public reimbursement rates such as Medicare and Medicaid as EDPMA requested.
- 5) Requires mediator to consider most relevant factors offered by parties, including prior contracted rates (over the last 4 years).
- 6) Median in-network rate is tied to the past, and increased by inflation, to avoid recent manipulation as EDPMA requested.
- 7) Batching allowed to improve efficiencies as EDPMA requested.
- 8) Requires the insurer to either deny or pay the claim in 30 days

(see reverse for more)

Down Coding Successes

- 1) UHC delayed implementation of its April 1, 2020, policy that would have violated the Prudent Layperson Standard after EDPMA asked UHC not to implement it and filed complaints with 50 state insurance commissioners.
- 2) Illinicare (Centene) decreased down coding after EDPMA met with them and raised concerns with state regulators.

Medicare Successes

- 1) In response to EDPMA's call for relief from the 6% Medicare cut in the 2021 fee schedule, plus 2% sequestration (for a total 8% cut to EM), Congress:
 - Increased Medicare reimbursement ceiling by 3.75%.
 - Delayed implementation of an add-on code for office-based care for 3 years significantly reducing the Medicare cuts to EM over next 3 years,
 - Delayed 2% Medicare sequester for 3 months.
- 2) In response to EDPMA's letters, CMS increased ED E/M reimbursement to maintain historic relativity with office-based care
- 3) GPCI 1.0 Work Floor extended (through 1/1/24) as requested by EDPMA.
- 4) As requested by EDPMA, CMS finalized coverage and payment for Initiation of Medication Assisted Treatment (MAT) in the ED in 2021.
- 5) Interest rate lowered (from 10.25% to 4%) and repayment period extended (another 6 months) for Medicare loans made during COVID as EDPMA requested.
- 6) Emergency department services were added to the list of Medicare telehealth approved services during the pandemic as EDPMA requested. Further, CMS finalized a 2021 fee schedule where all five levels of ED E/M services can be furnished via telehealth through the end of 2021 as EDPMA requested. As recommended by EDPMA, these flexibilities were also extended to critical care and observation services.
- 7) HHS clarified that during the PHE clinicians who provide telehealth from home are reimbursed as EDPMA requested.
- 8) Telehealth virtual check-in services expanded to new patients as EDPMA requested.
- 9) Some freestanding emergency departments are eligible for Medicare reimbursement during the pandemic as EDPMA requested.
- 10) 2019 MIPS reporting deadline was delayed as EDPMA requested and CMS created exemptions for extreme and uncontrollable circumstances for both 2020 and 2021 reporting.

State-Level Successes

- 1) Texas confirmed that the OON arbitration portal supports multiple claim submissions as EDPMA and the Texas provider coalition requested. The Texas Department of Insurance released a report affirming the effectiveness of the arbitration portal and process.
- 2) Texas delayed its tax on medical billing as requested by EDPMA and others in the Texas provider coalition. The legislature will now have an opportunity to weigh in on the issue in 2021.
- 3) Virginia did not pass problematic surprise billing legislation based on Medicare rates and, instead, adopted legislation requiring OON reimbursement at the commercially reasonable rate with arbitration as EDPMA and others in the Virginia provider coalition requested.
- 4) Maine OON legislation references reimbursement rates from an "independent" database when data in the state database is insufficient, as requested by EDPMA and the Maine provider coalition.
- 5) Connecticut rescinded its executive order that would have blocked the effect of the model CT OON law during the pandemic as requested by EDPMA and the Connecticut provider coalition.
- 6) Louisiana did not pass problematic OON legislation in 2020.
- 7) Massachusetts House and Senate made changes EDPMA requested (using an unbiased database and adding an option based on the in-network rate to the standard based on Medicare).
- 8) Georgia State regulators are leaning towards selecting FAIRHealth as the reference database for their new OON law as EDPMA requested.