



April 27, 2022

VIA EMAIL

Lynette Rhodes, Acting Medicaid Director
Georgia Department of Community Health
2 Peachtree Street, NW, Suite 36450
Atlanta, Georgia 30303
lrhodes@dch.ga.gov

RE: Centene's Policy to Automatically Down Code Emergency Claims Based on Final Diagnosis

Dear Ms. Rhodes:

The Emergency Department Practice Management Association (EDPMA) members deliver (or directly support) health care for about half of the 146 million visits to U.S. emergency departments (ED) each year, **EDPMA members service thousands of Georgia ED patients.** EDPMA appreciates your office contacting our headquarters and request state authorities uphold federal law and require Peach State Health to rescind their illegal downcoding policy.

From 2019 through January 2022, EDPMA members report **over 13,000 Medicaid claims downcoded by Peach State Health Plan and WellCare** as a result of implementing Centene's national policy. These downcodes are primarily serious Level 5 visits (coded as CPT 99285) arbitrarily reduced to Level 3 or Level 4 visits (coded as CPT 99283 or 99284). This reclassification in effect revises the visit from "emergent" (a true emergency fitting one of the Prudent Layperson's [PLP] four criteria) to "non-emergency"—i.e., a visit that should have waited to be seen in a physician's office at the next available appointment.

The parent company of Peach State Health is Centene, one of the nation's largest contractors for administering state-based Managed Medicaid programs. WellCare and Centene merged in 2020. One of the strategies Centene has adopted for enhancing its financial results, is to systematically under-reimburse for the care of acutely ill or injured Managed Medicaid patients who come to a hospital ED for treatment.

The mechanism for accomplishing this under-payment is a specially crafted "Non-Emergent Diagnosis List." See attachment **EXHIBIT A** for Centene's national downcoding policy—via the creation of a "Non-Emergent Diagnosis List" --for the adjudication of emergency department physician claims. Centene (through **Peach State Health**) is violating federal law by automatically downcoding ED claims based on a diagnosis list and we insist that the Medicaid Director and the Department of Insurance (OCI) enforce the Prudent Layperson Standard (PLP). In fact, CMS agreed with our perspective and reiterated in a response letter stating:

CMS Administrator Seema Verma sent a letter to EDPMA on March 15, 2018, reiterating that *“Whenever a payer (whether an MCO or a State) denies coverage **or modifies a claim for payment**, the determination of whether the prudent layperson standard has been met must be based on all pertinent documentation, must be focused on the presenting symptoms (and not on the final diagnosis), and must make take into account that the decision to seek emergency services was made by a prudent layperson (rather than a medical professional). This State Medicaid Director letter is still in effect and can be found at: <http://www.medicaid.gov/federal-policy-guidance/federal-policy-guidance.html> “ (emphasis added to point out that both denials **and down coding** based on diagnosis violates the federal prudent layperson standard). (3/15/18 CMS Response Letter)*

This is especially concerning when Peach State Health’s downcoding policies are violations of the federal law mandating that all managed Medicaid ED claims be adjudicated in accordance with PLP.

The Medicaid Managed Care Rule finalized in 2016 reiterates *“we prohibit the use of codes (either symptoms or final diagnosis) for denying claims because we believe there is no way a list can capture every scenario that could indicate an emergency medical condition under the BBA provisions. ... The final determination of coverage **and payment** must be made taking into account the presenting symptoms rather than the final diagnosis. The purpose of this rule is to ensure that enrollees have unfettered access to health care for emergency medical conditions, and that providers of emergency services receive payment for those claims meeting that definition without having to navigate through unreasonable administrative burdens.”* (emphasis added to point out that both denials **and down coding** based on diagnosis is a violation of the federal prudent layperson standard).(*Key Page from Managed Medicaid Rule 2016*)

EDPMA members have previously provided examples of Peach State’s downcoding of Georgia Medicaid claims from a Level 5 ED visit to a Level 3 ED visit.

In our view, no reasonable reviewer of these patients (and thousands more like them) can doubt they are 100% emergent cases. Yet Peach State has reclassified each and every one as “non-emergent”—and underpaid accordingly—by using an irrelevant diagnosis tool totally disconnected from the required Prudent Layperson assessment using the medical record.

Therefore, EDPMA requests:

1. That the Georgia Department of Community Health (DCH) and OCI issue a bulletin or rule that prohibits Peach State Health, WellCare and other state insurers from downcoding inappropriately, thus enforcing federal law; and
2. That the DCH and OCI direct Peach State and WellCare to re-process all such downcoded ED claims and pay at the emergency code rates originally billed, in accordance with the law; and
3. The DCH and OCI request Peach State, WellCare and other state insurers be directed to cease illegally using a diagnosis list for downcoding emergency department charts and rescind their policy to use diagnoses to preemptively

downcode claims

It is also our opinion that such extended violations of federal adjudication law ought to carry some significant sanctions by the state Medicaid authorities, particularly given the unresponsiveness of both Peach State Health and its parent company Centene to these concerns throughout much of 2019, including their unresponsiveness to a majority of appealed claims.

But we will leave the plan's non-compliant malfeasance for the state Medicaid Director and Insurance Commissioner to determine.

Sincerely,

A handwritten signature in cursive script that reads "Don Powell, DO".

Don Powell, DO, FACEP
Chair of the Board
Emergency Department Practice Management Association (EDPMA)

CC: John King, Commissioner, OCI