



February 22, 2021

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RE: United Healthcare Policy for Down Coding Emergency Claims

Dr. Migliori and Ms. Short:

The American College of Emergency Physicians (ACEP), representing 40,000 emergency physicians, and the Emergency Department Practice Management Association (EDPMA), representing about half of the 146 million patient visits to U.S. emergency departments, are writing to you for the third time to urge you not to implement the policy that would allow UHC to modify payment for emergency claims before reviewing the patient's main complaint and presenting symptoms.

This proposed UHC policy was originally scheduled to take effect on April 1, 2020, and it is our understanding that UHC now plans to roll it out in the second quarter of 2021. When UHC representatives discussed the policy with our members, they admitted that, under the policy, payment for emergency claims would be modified before the relevant presenting symptoms are reviewed. As discussed in our two earlier letters which are attached, this would be in direct violation of federal and state prudent layperson laws and other coding norms.

We are more than happy to schedule a conference call to discuss our concerns. However, the Centers for Medicare & Medicaid Services (CMS) has already clearly established that payment for emergency claims cannot be modified until **after** the presenting symptoms

have been reviewed.

For instance, CMS stated in its April 2016 Medicaid and CHIP Managed Care Final Rule:

*“The final determination of coverage **and payment** must be made taking into account the presenting symptoms rather than the final diagnosis”.*¹ (emphasis added to point out that both denials **and down coding** of emergency claims based on diagnosis is a violation of the federal prudent layperson standard).

We wrote CMS with concerns about similar policies that allow down coding based on diagnosis. In Seema Verma’s March 15, 2018, response letter (attached), she wrote:

*“Whenever a payer ... 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 PLP). (3/15/18 CMS Response Letter).

We urge you to refrain from implementing the problematic policy. If not, we ask that you discuss the issue with us on a conference call before implementation. Please contact Elizabeth Munding, Executive Director, Emergency Department Practice Management Association at emunding@edpma.org to schedule a call.

Sincerely,



Bing Pao, MD, FACEP,
Chair of Board, EDPMA



Mark S. Rosenberg, DO, MBA, FACEP
ACEP President ACEP

Cc:
Center for Consumer Information and Insurance Oversight
U.S. Department of Labor
State Insurance Commissioners

Attachments

1. [UHC April 1 99285 Policy](#)
2. [New UHC ED Coding Policy](#)
3. [CMS PLP Quotes](#)
4. [9/16/19 EDPMA/ACEP Letter to UHC](#)
5. [3/26/20 EDPMA/ACEP Letter to UHC](#)
6. [3/15/18 Response Letter from CMS to EDPMA on PLP](#)