EDPMA 25 YEARS

Data Analysis

Qualifying Payment Amounts and Health Plan Compliance Under the No Surprises Act

The Emergency Department Practice Management Association (EDPMA) is a trade association focused on the sustainable delivery of high-quality, cost-effective patient care in emergency departments. Our members deliver or directly support health care for approximately half of the 146 million patients that annually visit U.S. emergency departments.

The Study

EDPMA surveyed its membership to report on issues related to the implementation of the No Surprises Act (NSA) since January 1, 2022. Specifically, EDPMA analyzed the out-of-network allowed amounts commercial health plans reimbursed for services and whether the Qualified Payment Amount (QPA) was disclosed to the provider as required by law. EDPMA also reviewed member's experiences of the Independent Dispute Resolution (IDR) process. This is a high-level summary of initial findings; additional details are forthcoming.

The Numbers

14,500 claims from 35 States
Date range: January – May 2022
59 local, regional, and national practices
Antitrust Safe Harbor status maintained[1]

The Findings

Health Plans Routinely Fail To Comply with the NSA's Statutory And Regulatory QPA Disclosure Requirements

91% of claims surveyed did NOT include an identified QPA as specifically required by law. There is no known enforcement related to this pervasive health plan noncompliance.

When Reported, The QPA Consistently Equals The Allowed Amount for Provider Payments

While the statute avoided setting an initial payment benchmark and instituted no requirement that the paid amount equal the QPA, results find that health plans are commonly paying at a rate that equals the QPA. This finding highlights that health plans are using problematic QPAs as a payment standard when the NSA specifically avoided inclusion of a benchmark payment standard.[2]

The Independent Dispute Resolution Process Is Overburdened By Artificially Low QPAs

Certified IDR Entities (IDREs) are unprepared for the volume of disputes driven by the NSA regulations as written. The QPA amounts in the survey results suggest artificially low calculation of QPAs, not reflective of a reasonable market-based payment rate. This could be due to the regulations establishing the QPA calculation methodology or due to pervasive improper health plan application of the regulations. These low initial payments where health plans are using the QPA as the payment amount has created significant and unanticipated volumes of IDR claims. In the first five months, providers initiated more disputes than the government anticipated for a full year.[3] Significant delays in resolutions (up to 3 months) drives substantial negative cash flow for physician groups, resulting in layoffs and threats of hospital closure.

[1] Redacted data must be at least 3 months old; at least 5 data contributors per published dataset; no group contributing more than 25% of a data set; raw data only reviewed by third-party independent consultant
[2] According to the survey results, these levels represent cuts of at least 20% - 50% from pre-NSA average out-of-network reimbursement levels for emergency medicine.
[3] https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/federal-independent-dispute-resolution-process-status-update.pdf

The Solutions

To ensure a sustainable health care safety net, emergency physicians must be fairly compensated in a timely manner for services already delivered, especially if those services are required under the federal EMTALA law, which provides both a guaranteed network for health plans and a safety net for patients.

Rapid and Effective Enforcement

The Tri-Departments must uphold the NSA statute and ensure that ALL claims include the required QPA. Non-compliance with this and other provisions must be quickly and effectively enforced. EDPMA calls on the Tri-Departments to immediately begin robust audits of the QPAs and correct health plan non-compliance issues, including failing to report the QPA, and provide stakeholders with transparency into enforcement processes and results.

Accurate QPAs

The Tri-Departments must ensure QPAs are calculated as intended by law to reflect the patient's out-of-network financial responsibility and not the provider's out-of-network reimbursement.

Require RARC Codes

Without RARC information from health plans, emergency medicine physicians cannot effectively navigate resolution processes when they receive inadequate or inappropriate payments for clinical services. EDPMA calls on the Tri-Departments to immediately mandate, not just "strongly recommend," that the RARC codes be used by the health plans in the mandated ANSI 835 remittance advice remitted to the physicians and hospitals.

Clarify RARC Codes

The RARC code 830 is used in 93% of claims. This code informs the provider that the claim was settled EITHER under the federal or state balance billing law. In states with a Specified State Law, this code does NOT identify ERISA/non-ERISA claims or other characteristics that could place the claim under federal or state jurisdiction. The Tri-Departments must require a clear ERISA identifier or require the use of a definitive code affirmatively identifying whether the claim is subject to state or federal regulation to ensure that providers have access to appropriate resolution when needed. By mandating the appropriate RARC codes be used, the Tri-Departments will expedite the IDR process and reduce the analysis by the IDREs to determine if ineligible Specified State Law claims are in the federal IDR batch of claims.

EMTALA Must Now Be Funded

Since 1987, the federal law EMTALA has required emergency physicians to provide clinical care to all patients without regard to their ability to pay. This requirement is significant and applies to almost all emergency care provided in US hospitals. However beneficial, EMTALA was never funded. Now, with commercial reimbursement plummeting due to the NSA, the previous equilibrium is significantly disrupted. EMTALA-required care, stand-by costs, uninsured care, and underinsured care have no offset in a system that requires care for all patients irrespective of the reimbursement. We must now step up to ensure that the U.S. emergency care system is sustainable, and that emergency medicine physicians can still supply much-needed care. Without solutions, our nation's health care safety net will crumble.

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