Physicians protected from health plan credit card fees

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Staff News Writer
The Centers for Medicare and Medicaid Services (CMS) has weighed in with definitive guidance saying that health plans cannot require physician practices or other health care organizations to accept payments made using so-called virtual credit cards that are often accompanied by exorbitant service fees.

In this and other respects, persistence has paid off on AMA advocacy to clarify the Health Insurance Portability and Accountability Act (HIPAA) standard payer-to-provider payment method for electronic funds transfer (EFT).

Ever since the Automated Clearing House (ACH) EFT standard went in effect in 2014, the AMA has advocated that CMS issue guidance spelling out physician rights regarding insurance company electronic payments.

The effort proved to be successful as CMS recently posted the requested clarification of its EFT operating rules and standards on its HIPAA Administrative Simplification frequently asked questions webpage.

Section 1104 of the Affordable Care Act expanded efforts to standardize health care business practices, EFTs and electronic remittance advice (ERA). The CMS ERA and EFT rule was published in 2012 and took effect in 2014. The standards apply to all insurers, not just Medicare and Medicaid.

**Dealing with virtual cards**

But not all private insurers followed the letter or spirit of the regulations. Some insisted on making payments with so-called virtual credit cards (VCCs), a 16-digit number emailed, faxed or mailed to a provider in order to make a one-time payment.

For the past three years, the AMA has been alerting physicians to their rights to refuse payments via VCCs and advocating against the coercive tactics used by payers and their vendors to force physicians’ acceptance of VCC payments. The AMA, the Medical Group Management Association (MGMA) and other organizations made physicians’ objections to VCCs known in an August 2014 letter sent to then Health and Human Services Secretary Sylvia Matthews Burwell.

Chief among their complaints were increased administrative burdens and fees as high as 5 percent assessed with each VCC transaction.
“Providers are unexpectedly losing income through these card fees, which essentially reduce the contracted fee rate that has been negotiated with the health plan for a particular service or services,” the letter states. “Many providers are understandably opposed to incurring these fees, especially when they did not choose to use this payment method and when they are faced with a manual, burdensome opt-out process that further delays payment.”

On the revised FAQ page, CMS unequivocally asserts that physicians cannot be forced to take VCCs as payment.

“A health plan cannot require a provider to accept virtual credit card payments,” the CMS states. “A provider has the right to request that a health plan use the electronic funds transfer (EFT) transaction. If a provider makes the request, the health plan must comply.”

**Improper fees imposed for ACH EFT standard**

In addition to the headaches caused by VCCs, physicians were also often being improperly charged when receiving the HIPAA EFT standard. In order to issue payments using the standard, some health plans employed payment vendors to process ACH EFT payments. Frequently, these vendors would charge processing fees of up to 2 percent.

Objections to these additional fees being assessed to electronic transactions were noted by the AMA, MGMA and 12 other organizations in a February 2015 letter to then-CMS Administrator Marilyn Tavenner, RN. “We have been alarmed to receive reports of health plans or their vendors assessing percentage-based fees (usually 1.5 percent to 2 percent) for delivering ACH EFT payments to providers,” the letter states. “As with virtual credit cards, providers are again losing income from their contracted rates due to unnecessary fees.”

**Avoiding “value-added” service fees**

The new guidance on the CMS FAQ page states that the only fee that may apply to a HIPAA EFT transaction is the small charge (averaging 34 cents per transaction) applied by the provider’s bank. Physicians and other providers are not required to contract for any type of “value-added” service—such as 24-hour hotline numbers—that physicians did not request.

Also, health plans or their vendors “are prohibited from charging fees or costs for normal telecommunications in excess of the fees they incur when they directly transmit or receive a standard transaction,” according to the CMS FAQ page.
EFT payments from health plans came with fees attached for 17 percent of the 876 physician practices responding to a Sept. 5 MGMA poll.

The revised CMS FAQ page notes that if a health plan or its business associate is not playing by the rules, an online complaint can be filed.

Maximizing practice efficiency with electronic payments

Adoption of ACH EFT “has not been as rapid as many had hoped” despite the opportunity for savings, according to an electronic payment guiding principles document produced by the Workgroup for Electronic Data Interchange (WEDI) ePayments Taskforce. The document states that alternative payment approaches such as VCCs and excessive ACH EFT payment fees “could have the effect of reducing the number of ACH EFT and ERA transactions,” which runs counter to the goal of leveraging national standards to decrease administrative costs.

Not only can individual practices benefit from adherence to the ACH EFT, the health system as a whole could save billions if more transactions are done electronically rather than manually, according to the “2016 CAQH Index,” a report on health care adoption of electronic business processes published by the Council for Affordable Quality Healthcare. According to the report, the health system could save approximately $395 million annually by switching to ACH EFT payments.

The AMA is committed to helping physicians save money and reduce administrative burdens in their practices. The AMA’s electronic transaction toolkits offer a wealth of information to help practices utilize the EFT and other HIPAA standards to improve the efficiency of their business.

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