Oct. 28, 2022: National Advocacy Update

VA proposed rule allowing health professions trainees to provide care via telehealth

The AMA appreciates the importance of telehealth for the nation’s veterans and, in general, supports the continued and expanded use of telehealth within the Department of Veterans Affairs (VA).

In the VA Proposed Rule “RIN 2900-AQ59—Health Care Professionals Practicing Via Telehealth,” the VA proposed modifications to the definition of “covered health care professionals” which would expand this definition to including trainees and other providers, allowing these individuals to deliver health care services via telehealth within the VA.

In a comment letter (PDF) on the Proposed Rule, the AMA expressed support for providing patients with access to health care services via telehealth but also noted that the VA should consider the potential impact on care quality within any proposal that would expand the scope of practice for non-physicians including the Federal Supremacy Project.

In particular, the AMA highlighted the need for health professions trainees to be supervised by appropriately licensed health professionals and supported the proposed rule’s supervision requirement. The AMA also strongly supported the fact that the current proposal is limited to health professionals and health professions trainees who are employed by the VA—contracted health care providers will continue to be subject to state licensing, quality and scope of practice standards. Additionally, the AMA strongly encouraged the VA to consider how the Federal Supremacy Project could potentially impact the provision of telehealth services to ensure that veterans receive the highest quality of care.

Overall, the AMA is strongly committed to helping the VA ensure the comprehensive delivery of, and timely access to, quality primary and specialty health care services for the nation’s veterans and understands the importance of telehealth within the VA.

AMA expresses concerns with disrupting physicians’ revenue
In a letter (PDF) to U.S. Department of Health & Human Services (HHS) Secretary Xavier Becerra, the AMA expressed serious concerns with recommendations made to HHS which would impact how physicians and their practices communicate and conduct business with health plans. The recommendations, which came from a group of non-federal advisors to HHS, would seek to disrupt the standards-based claims transactions that have been in place for over two decades. The AMA cited concerns including disruption to revenue cycle functions, increased costs to medical practices for new data translation services, increased physician burden and delays in providing patients care. While the AMA strongly supports efforts to address administrative burdens, the recommendations ignore clear gaps and deficiencies in health plan/physician interactions, such as prior authorizations.

The AMA provided several recommendations to improve administrative exchange and transaction standards, including:

- Retaining what is currently working and not to “rip and replace” widely adopted claims systems.
- Focusing HHS’ efforts on unmet business needs and to fill gaps in the administrative exchange between health plans and physicians.
- Rigorously evaluate and test any new transaction standards before adoption.
- Moving forward at a measured and practical pace by adopting a single standard at a time.
- Require that all new standards used in administrative transactions be developed based on physician, clinician and other frontline professional input.

The AMA’s letter notes “[f]ollowing this approach will ensure that limited health IT resources are invested wisely to address the most urgent unmet business needs and avoid diversion of development time and dollars to duplicative efforts.”

**AMA urges ban on sale of tianeptine**

At the June 2022 Annual Meeting of the AMA House of Delegates, new policy was adopted calling for the AMA to “advocate to ban the sale of tianeptine directly to the public in the absence of research into the safety and efficacy of the substance.”

The U.S. Food and Drug Administration (FDA) has warned that tianeptine products have been linked to serious harm, overdoses and death. The FDA said that “Poison control center cases involving tianeptine exposure have increased nationwide, from 11 total cases between 2000 and 2013 to 151 cases in 2020 alone.” Marketing claims for tianeptine say that it “can improve brain function and treat anxiety, depression, pain, opioid use disorder, and other conditions.”
The FDA says that physicians and others can report an adverse event involving tianeptine by using the FDA's MedWatch Safety Information and Adverse Event Reporting Program.

Tennessee and Alabama are among only a few states that have banned tianeptine.

New AMA resource helps physician practices fight inappropriate E/M downcoding

Effective Jan. 1, 2021, major changes were made to the evaluation and management (E/M) services’ Current Procedural Terminology (CPT®) code set and reporting guidelines to reduce documentation burdens, simplify coding and allow physicians to spend more time with patients. Unfortunately, some health plans are disputing E/M levels for submitted claims and implementing E/M downcoding programs that inappropriately—and often automatically, through claim editing algorithms—reduce payment for provided services.

The AMA has created a new resource (PDF) to support physician practices in navigating such payer E/M downcoding programs. The document offers examples of downcoding scenarios, sample plan communications, guidance on reviewing remittance advice to identify downcoding and documentation tips to support successful appeals. Also included are sample downcoding appeal letters, which are available in an editable format. The AMA has created an informational survey to track health plans’ downcoding programs and further support physician practices in responding to payer downcoding initiatives.

Differences in physician compensation methods

A new Policy Research Perspective (PDF) uses AMA’s nationally representative Physician Practice Benchmark Survey to provide a detailed look at how physicians were compensated by their practices from 2012 to 2020. The percentage of physicians paid by a combination of two or more methods increased from 48.2% in 2012 to 59.2% in 2020 due to an increase in the percentage of physicians who received more than half their compensation from salary combined with at least one other method, namely bonus.

The report also examines differences across physician employment status and practice ownership, and illustrates that physician owners of a private practice generally have a different compensation structure from the physicians they employ.
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