

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 236  
(A-22)

Introduced by: Ohio  
Subject: Out-of-Network Care  
Referred to: Reference Committee B

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1 Whereas, Many patients receive care from physicians who are not in their insurance company's  
2 restrictive network for multiple reasons; and  
3  
4 Whereas, This leads to out-of-network bills that are unexpected both to patients and physicians,  
5 especially in Emergency situations; and  
6  
7 Whereas, There are multiple potential legislative solutions being considered both at the national  
8 and state levels to address this problem; and  
9  
10 Whereas, AMA Policy H-285.904 only addresses permitting mediation in those instances where  
11 a physician's unique background or skills (e.g. the Gould Criteria) are not accounted for within a  
12 minimum coverage standard; therefore be it  
13  
14 RESOLVED, That our American Medical Association amend, by substitution, AMA Policy  
15 H-285.904, "Out-of-Network Care," item H, to read as follows:  
16  
17 ~~H. Mediation should be permitted in those instances where a physician's unique~~  
18 ~~background or skills (e.g. the Gould Criteria) are not accounted for within a~~  
19 ~~minimum coverage standard.~~  
20  
21 H. Mediation and/or Independent Dispute Resolution (IDR) should be permitted in  
22 all circumstances as an option or alternative to come to payment resolution  
23 between insurers and providers. (Modify Current HOD Policy)

Fiscal Note: Not yet determined

Received: 05/10/22

**RELEVANT AMA POLICY**

**Out-of-Network Care H-285.904**

1. Our AMA adopts the following principles related to unanticipated out-of-network care:
  - A. Patients must not be financially penalized for receiving unanticipated care from an out-of-network provider.
  - B. Insurers must meet appropriate network adequacy standards that include adequate patient access to care, including access to hospital-based physician specialties. State regulators should enforce such standards through active regulation of health insurance company plans.
  - C. Insurers must be transparent and proactive in informing enrollees about all deductibles, copayments and other out-of-pocket costs that enrollees may incur.
  - D. Prior to scheduled procedures, insurers must provide enrollees with reasonable and timely access to in-network physicians.

E. Patients who are seeking emergency care should be protected under the "prudent layperson" legal standard as established in state and federal law, without regard to prior authorization or retrospective denial for services after emergency care is rendered.

F. Out-of-network payments must not be based on a contrived percentage of the Medicare rate or rates determined by the insurance company.

G. Minimum coverage standards for unanticipated out-of-network services should be identified. Minimum coverage standards should pay out-of-network providers at the usual and customary out-of-network charges for services, with the definition of usual and customary based upon a percentile of all out-of-network charges for the particular health care service performed by a provider in the same or similar specialty and provided in the same geographical area as reported by a benchmarking database. Such a benchmarking database must be independently recognized and verifiable, completely transparent, independent of the control of either payers or providers and maintained by a non-profit organization. The non-profit organization shall not be affiliated with an insurer, a municipal cooperative health benefit plan or health management organization.

H. Mediation should be permitted in those instances where a physician's unique background or skills (e.g. the Gould Criteria) are not accounted for within a minimum coverage standard.

2. Our AMA will advocate for the principles delineated in Policy H-285.904 for all health plans, including ERISA plans.

3. Our AMA will advocate that any legislation addressing surprise out of network medical bills use an independent, non-conflicted database of commercial charges.

Citation: Res. 108, A-17; Reaffirmation: A-18; Appended: Res. 104, A-18; Reaffirmed in lieu of: Res. 225, I-18; Reaffirmation: A-19; Reaffirmed: Res. 210, A-19; Appended: Res. 211, A-19; Reaffirmed: CMS Rep. 5, A-21