

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (A-25)

Report of the Private Practice Physicians Section Reference Committee Addendum

Hillary Johnson-Jahangir, MD, Chair

1 Your Reference Committee recommends the following consent calendar for acceptance:
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3 **RECOMMENDED FOR NOT ADOPTION**
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- 5 1. Resolution 12 – State Regulation of Non-Preempted “Non-Central Matters” of
6 ERISA Plans—Rutledge v. PCMA

RECOMMENDED FOR NOT ADOPTION

- (1) RESOLUTION 12 – STATE REGULATION OF NON-
PREEMPTED “NON-CENTRAL MATTERS” OF ERISA
PLANS—RUTLEDGE V. PCMA

RECOMMENDATION:

Resolution 12 be not adopted.

RESOLVED, that our American Medical Association will study whether and how the following issues not currently addressed under the Employment Retirement Income Security Act (ERISA) and that do not relate to a “particular scheme of substantive coverage” may be reasonably regulated by states for self-insured ERISA plans pursuant to the U.S. Supreme Court holding in *Rutledge v. PCMA* with a report back at the Interim 2025 meeting on the feasibility and barriers of implementing state-based regulation for these priority issues and an action plan, including sample legislative language, to support state based implementation of these priorities:

1. Interest payments on overdue “clean” health insurance claims not otherwise addressed by ERISA’s statutory mandate;
2. Administrative issues surrounding prior authorization, including but not limited to timeliness of responses and duty to obtain data records available from sources other than the physician so as not to waste physician resources;
3. Payment for Medicare co-insurance and deductibles when Medicare is primary and another plan is secondary and the physician is a Medicare-participating physician but non-participating with the secondary plan;
4. Payment for the administrative burden of prior authorization and successful denial appeals;
5. Parity for telehealth-delivered services;
6. Timely payment of “clean claims” when the insurer’s obligation to pay the claim is reasonably distinct from timely determination of claims;
7. Enforcement of evaluation & management modifier code 25 use/payments as articulated under AMA policies D-385.956 and D-70.971 as well as analogous state medical society policies;
8. Requiring that when health plan payment recovery or recoupment is due to coordination of benefit failure, the health plan shall seek recovery from the patient and/or the correct payor;

(Directive to Take Action)

1 Your Reference Committee examined the components of Resolution 12 and initially
2 considered that each provision is, essentially, its own resolution. As such, Resolution 12
3 could be broken apart and have a greater likelihood of success if each research question
4 was directed on its own. The Committee worried that combining them into one research
5 request would prove untenable, as the research would become too large and too
6 unwieldy to arrive at meaningful findings in a timely manner.

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8 The Committee considered if there were any particular components that were more
9 pressing than others in an effort to refine the resolution, but ultimately could not
10 determine that any one topic was of greater or lesser importance than the others. The
11 Committee would be interested to hear the author's thoughts about which items should
12 receive priority or whether any components are understood by the author to represent a
13 greater impact on independent physicians and/or their practices. The Committee also
14 considered that for provisions like payment for prior authorization or telehealth parity, the
15 AMA either has existing policy or is currently engaged in reporting on these subjects.
16 The Committee thusly worried that some of these research requests would be seen as
17 redundant or duplicative and that by keeping them together with requests that could be
18 seen as novel, Resolution 12 would likely either not be heard or simply lead to current
19 policy being reaffirmed.

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21 While the Committee sympathized with the author's goal, it ultimately found that
22 Resolution 12, as currently written, is likely too unfocused and too broad to be put
23 forward to the House of Delegates. The Committee welcomes future resolutions that
24 consider the research items individually and can show the need and the impact of them.
25 Your Reference Committee thus recommends that Resolution 12 be not adopted.

- 1 Doctor Chair, this concludes the addendum report of the Private Practice Physicians
- 2 Section Reference Committee. I would like to thank Dr. Carl Knopke and Dr. Avani Patel,
- 3 as well as all those who testified before the Committee.

Hillary Johnson-Jahangir, MD, PhD, MS
Chair, PPPS Reference Committee

Carl Knopke, MD

Avani Patel, MD