AMERICAN MEDICAL ASSOCIATION PRIVATE PRACTICE PHYSICIANS SECTION

Resolution: 10
(I-25)

Introduced by: Matthew D. Gold, MD

Subject: Restoring Balance Billing and Allowing Copay Forgiveness to Preserve Independent Practice and Improve Access to Care

Referred to: PPPS Reference Committee
(xxxx, MD, Chair)

Whereas, the American Medical Association mission is to promote the art and science of medicine and the betterment of public health, and core advocacy positions include access to health care and physician well-being & burnout; and

Whereas, over the past 20+ years, reimbursement rates have declined significantly in real-dollar items (led by Medicare at 30 percent—more in inflation-adjusted terms—but more often than not leading other insurance organizational policy in parallel), while practice overhead (rent, staff, EHR compliance, and malpractice insurance) has risen sharply. Physicians are no expected to provide increasingly complex care while bearing financial risk, without the ability to charge fair value or relieve financial burden for struggling patients; and

Whereas, efforts to redress this disparity by advocacy to improve third party fee schedules, particularly Medicare, have so far been unproductive of relief; and

Whereas, balance billing refers to a physician's ability to charge a patient for the difference between the provider's fee and what the insurer reimburses. This was historically permitted in Massachusetts until reforms during the Dukakis administration in the 1980s prohibited balance billing, even for non-participating physicians treating Medicare patients. Massachusetts General Laws and Board of Registration regulations further prohibit charging beyond allowable amounts for many insured patients, irrespective of network participation; and

Whereas, thirty-three states have some form of prohibition on balance billing and subsequently the federal No Surprises Act was enacted in 2020 that protects patients from receiving unexpected, high out-of-network medical bills for certain emergency and non-emergency services. The law limits balance billing by out-of-network providers at in-network facilities and prevents out-of-network providers from balancing billing for certain services, such as air ambulance services (but not land ambulance services). Patients are generally responsible only for their in-network cost-sharing amounts, such as copayments and deductibles; and

Whereas, at the same time, federal regulations and payer contracts—largely through anti-kickback statutes and insurer agreements—restrict a physician's ability to waive or forgive co-pays and deductibles, even in cases of demonstrated financial hardship; and

Whereas, the prohibition of balance billing and mandated collection of co-pays, even from indigent or financially stressed patients, places independent physicians in an untenable position—both economically and ethically; and

Whereas, hospitals, by contrast, can negotiate higher rates, apply facility fees, and benefit from vertical integration and government subsidies. Independent practitioners are increasingly forced to sell their practices, retire early, or reduce services. Patient, in turn, face reduced access, fewer choices, and more corporatized care; and

Whereas, private/independent physician practices need both the freedom to set fair, transparent fees and the discretion to relieve patients of financial hardship when appropriate. Restoring regulated balance billing for outpatient, non-emergency care—combined with lifting restrictions on copay forgiveness in cases of financial hardship—would provide physicians with essential flexibility and improve practice's financial sustainability while preserving transparency and protecting vulnerable patients; and

Whereas, the AMA has multiple policies addressing the need for, right of, and promotion of advocacy for, balanced billing but has not prioritized that in advocacy, in preference to advocating for fee schedule improvement; and

Whereas, the AMA has policy to monitor the effect of balance billing on rural health and to report back "at every HOD meeting its progress toward completion of all these goals" on balance billing though such reporting is obscure[1,2]; and

Whereas, there are successful models in other professional service industries (e.g., law, dentistry), where clients/patients may opt for higher-cost services if they perceive value, and practitioners may offer charitable relief when warranted, and the AMA acknowledges patient choice as a relevant factor[3]; therefore be it

RESOLVED, that our American Medical Association assign high priority to advocacy to support legislation or regulatory reform to restore private physicians' ability to balance bill patients for non-emergency, outpatient medical services, regardless of insurance network participation status (Directive to Take Action); and be it further

RESOLVED, that our AMA oppose artificial caps on private physician balance billing amounts, especially of less than 100 percent above the insurer's allowed amount, to reflect and offset decades of reimbursement erosion (New HOD Policy); and be it further

RESOLVED, that our AMA support the continuation of protections from balance billing for emergency care, Medicaid beneficiaries, and other vulnerable populations as currently required under state and federal law (New HOD Policy); and be it further

RESOLVED, that our AMA advocate at the federal level for reform of anti-kickback and payer contracting rules that prohibit physicians from waiving co-pays and deductibles for patients experiencing financial hardship (Directive to Take Action).

Fiscal Note: (Assigned by HOD)

Received: 8/25/2025

REFERENCES

1. AMA Policy H-465.985 "Medicare Balance Billing"
2. AMA Policy D-380.996 "Balance Billing for All Physicians"
3. AMA Policy H-390.854 "Freedom of Choice"

RELEVANT AMA POLICY

Balance Billing for All Physicians D-380.996

1. Our AMA will devote the necessary political and financial resources to introduce national legislation at the appropriate time to bring about implementation of Medicare balance billing and to introduce legislation to end the budget neutral restrictions inherent in the current Medicare physician payment structure that interferes with patient access to care.

2. This national legislation will be designed to pre-empt state laws that prohibit balance billing and prohibit inappropriate inclusion of balance billing bans in insurance-physician contracts.

3. Our AMA will develop model language for physicians to incorporate into any insurance contracts that attempt to restrict a physician's right to balance bill any insured patient.

4. Our AMA Board of Trustees will report back to our AMA House of Delegates electronically by March 15, 2008 and at every HOD meeting its progress toward the completion of all of these goals.

Citation: Res. 925, I-07; Reaffirmed: BOT Rep. 22, A-17

Balance Billing H-385.991

Our AMA supports the right of the physician to balance bill a patient for any care given, regardless of method of payment, where permissible by law or contractual agreement.

Citation: Sub. Res. 128, I-83; Reaffirmed: CLRPD Rep. 1, I-93; Reaffirmed: Sub. Res. 704, A-01; Reaffirmed: A-04; Reaffirmed: A-05; Reaffirmed: A-06; Reaffirmed per BOT Action in response to referred for decision Res. 236, A-06; Reaffirmed: CMS Rep. 01, A-16

Parity in Medicare Reimbursement D-390.969

Our AMA will continue its comprehensive advocacy campaign to: (1) repeal the reductions in Medicare payment for imaging services furnished in physicians' offices, as mandated by the Deficit Reduction Act of 2005; (2) pass legislation allowing physicians to share in Medicare Part A savings that are achieved when physicians provide medical care that results in fewer in-patient complications, shorter lengths-of-stays, and fewer hospital readmissions; and (3) advocate for other mechanisms to ensure adequate payments to physicians, such as balance billing and gainsharing.

Citation: BOT Action in response to referred for decision Res. 236, A-06; Reaffirmed: I-08; Modified: BOT Rep. 09, A-18; Reaffirmed in lieu of: Res. 823, I-18

Medicare Balance Billing D-390.986

1. Our American Medical Association advocate that physicians be allowed to balance bill Medicare recipients to the full amount of their normal charge with the patient responsible for the difference between the Medicare payment and the physician charges
2. Our AMA seek introduction of national legislation to bring about implementation of balance billing of Medicare recipients.
3. Our AMA further advocate that such federal laws and regulations pre-empt state laws that prohibit balance billing.

Citation: Res. 713, I-02; Reaffirmed: A-04; Reaffirmed: A-06; Reaffirmed per BOT Action in response to referred for decision Res. 236, A-06; Reaffirmed: CMS Rep. 5, I-12; Reaffirmed: BOT Rep. 9, A-22

Medicare Balance Billing D-390.985

Our AMA will work on behalf of physicians to regain the right to balance bill Medicare patients for the full reasonable fees as they determine appropriate.

Citation: Res. 119, A-03; Reaffirmed: A-04; Reaffirmed: A-06; Reaffirmed per BOT Action in response to referred for decision Res. 236, A-06; Modified: CMS Rep. 01, A-16

Rural Health H-465.989

It is the policy of the AMA that: (1) the AMA closely monitor the impact of balance billing restrictions mandated by the Budget Reconciliation legislation on reimbursement levels and access to care in rural areas, and take action as needed to moderate that impact; (2) the AMA closely monitor implementation of the legislation establishing essential access community hospitals and rural primary care hospitals, to ensure that this program is implemented in a manner conducive to high quality of patient care and consistent with Association policy concerning the functions and supervision of physician assistants and nurse practitioners; (3) state medical associations be encouraged to monitor similarly and to influence any legislation or regulations governing the development and operation of such limited service rural hospital facilities in their own jurisdictions; and (4) the AMA establish liaison with the American Hospital Association, Congress and the Centers for Medicare & Medicaid Services regarding any further development of essential access community hospitals and rural primary care hospitals grants.

Citation: CMS Rep. K, A-90; Modified: Sunset Report, I-00; Reaffirmed: BOT Rep. 6, A-10; Reaffirmed: CMS Rep. 3, A-15; Reaffirmed: CMS Rep. 01, A-25

Freedom of Choice H-390.854

(1) The AMA will seek appropriate cases to challenge the legality and constitutionality of Medicare restrictions on non-participating physicians' medical practice and on patient freedom of choice by such mechanisms as limitations on balance billing and prohibitions on private "opt out" arrangements between physicians and patients. (2) The AMA will strongly resist such restrictions being extended to other payers in national health care reform legislation.

Citation: Res. 117, I-92; Reaffirmed: CMS Rep. 10, A-03; Renumbered: CMS Rep. 7, I-05; Reaffirmed: A-06; Reaffirmed: CMS Rep. 01, A-16

Reform the Medicare System D-330.924

Our AMA will renew its commitment for total reform of the current Medicare system by making it a high priority on the AMA legislative agenda beginning in 2009 and the AMA's reform efforts will be centered on our long-standing policy of pluralism (AMA Policy H-165.844), freedom of choice (H-165.920, H-373.998, H-390.854), and balance billing (D-380.996, H-385.991, D-390.969).

Citation: Res. 834, I-08; Reaffirmed: CMS Rep. 6, A-09; Modified: CMS Rep. 01, A-19