

AMERICAN MEDICAL ASSOCIATION PRIVATE PRACTICE PHYSICIAN SECTION

Resolution: 9
(JUN-22)

Introduced by: Alex Shteynshlyuger, MD

Subject: Judicial Enforcement of Physician Rights – CMS Violations of the Law

Referred to: PPPS Assembly as a Whole

1 WHEREAS, AMA has previously affirmed that administrative simplification, including automation
2 and standardization of electronic transactions, is a high priority in order to provide affordable,
3 timely, and effective care; and
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5 WHEREAS, AMA has previously passed a resolution “CMS Administrative Requirements D-
6 190.970” affirming the AMA commitment to hold CMS accountable when it comes to violations
7 of Federal law by health plans and their business associates; and
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9 WHEREAS, CMS failure to address physician’s valid grievances is estimated to cost physician
10 practices hundreds of millions of dollars annually, raises costs of care to patients making it less
11 affordable, tips the scales of government to favor insurance companies, and creates
12 unnecessary administrative stress and burnout to physicians and their staff; and
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14 WHEREAS, CMS continues to deprive the AMA members of their legal rights by failing to
15 adjudicate valid complaints, closing valid complaints under false presences, failing to respond to
16 AMA members as required by the Administrative Procedure Act (APA), and failing to comply
17 with the APA in good faith; and
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19 WHEREAS, The National Standards Group (NSG) at the CMS Office of Burden Reduction
20 continues to violate the due process of physicians by failing to adjudicate complaints and to
21 respond to complaints in accordance with the requirements of the Administrative Procedure Act
22 (APA); therefore be it
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24 RESOLVED, That our American Medical Association (AMA) will instruct the AMA Litigation
25 Center to aggressively pursue the AMA member legal rights and to seek remedies related to
26 Administrative Procedure Act violations by CMS, HHS and other governmental agencies, and
27 violations of the HIPAA Administrative Simplification requirements by CMS/HHS and health
28 plans through litigation, including class-action litigation (Directive to Take Action).

Fiscal Note: Not yet determined

Received: 5/12/2022

RELEVANT AMA POLICY

CMS Administrative Requirements (D-190.970)

Our AMA will: (1) forcefully advocate that the Centers for Medicare and Medicaid Services (CMS) investigate all valid allegations of HIPAA Administrative simplification requirements thoroughly and offers transparency in its processes and decisions as required by the Administrative Procedure Act (APA); (2) forcefully advocate that the CMS resolve all complaints related to the non-compliant payment methods including opt-out virtual credit cards, charging processing fees for electronic claims and other illegal electronic funds transfer (EFT) fees; (3) communicate its strong disapproval of the failure by the CMS Office of Burden Reduction to effectively enforce the HIPAA administrative simplification requirements as required by the law and its failure to impose financial penalties for non-compliance by health plans; and (4) through legislation, regulation or other appropriate means, advocate for the prohibition of health insurers charging physicians and other providers to process claims and make payment.

Citation: Res. 229, I-21

Administrative Simplification in the Physician Practice (D-190.974)

1. Our AMA strongly encourages vendors to increase the functionality of their practice management systems to allow physicians to send and receive electronic standard transactions directly to payers and completely automate their claims management revenue cycle and will continue to strongly encourage payers and their vendors to work with the AMA and the Federation to streamline the prior authorization process.
2. Our AMA will continue its strong leadership role in automating, standardizing and simplifying all administrative actions required for transactions between payers and providers.
3. Our AMA will continue its strong leadership role in automating, standardizing, and simplifying the claims revenue cycle for physicians in all specialties and modes of practice with all their trading partners, including, but not limited to, public and private payers, vendors, and clearinghouses.
4. Our AMA will prioritize efforts to automate, standardize and simplify the process for physicians to estimate patient and payer financial responsibility before the service is provided, and determine patient and payer financial responsibility at the point of care, especially for patients in high-deductible health plans.
5. Our AMA will continue to use its strong leadership role to support state and specialty society initiatives to simplify administrative functions.
6. Our AMA will continue its efforts to ensure that physicians are aware of the value of automating their claims cycle.

Citation: CMS Rep. 8, I-11; Appended: Res. 811, I-12; Reaffirmed: A-14; Reaffirmed: A-17; Reaffirmed: BOT Action in response to referred for decision: Res. 805; I-16; Reaffirmed: I-17; Reaffirmed: A-19; Modified: CMS Rep. 09, A-19

Police, Payer and Government Access to Patient Health Information (D-315.992)

Our AMA will: (1) widely publicize to our patients and others, the risk of uses and disclosures of individually identifiable health information by payers and health plans, without patient consent or authorization, permitted under the final Health Insurance Portability and Accountability Act "privacy" rule; and (2) continue to aggressively advocate to Congress, and the Administration, physician's concerns with the administrative simplification provisions of HIPAA and that the AMA seek changes, including legislative relief if necessary, to reduce the administrative and cost burdens on physicians.

Citation: Res. 246, A-01; Reaffirmed: BOT Rep. 22, A-11; Reaffirmed: BOT Rep. 7, A-21