AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 229
(N-21)

Introduced by: New York

Subject: CMS Administrative Requirements

Referred to: Reference Committee B

Whereas, The American Medical Association (AMA) has previously affirmed that administrative simplification, including automation and standardization of electronic transactions, is a high priority in order to provide affordable, timely, and effective care; and

Whereas, The National Standards Group (NSG) at the Centers for Medicare/Medicaid Services (CMS) Office of Burden Reduction is empowered to enforce administration simplification requirements to ensure standardization throughout the ecosystem of payers, providers, and clearinghouses; and

Whereas, Many insurers, including government payers, have transitioned to and mandated electronic billing rather than paper claim submission; and

Whereas, Some health insurers and their claim processing subsidiaries have begun to charge a processing fee for claims submitted electronically and even for the electronic payments they provide to physicians and their practices; and

Whereas, Violations of administrative simplification requirements by health plans and payor business associates, including clearinghouses, are prevalent and have an adverse effect on healthcare practices and patients via higher costs and resulting in limited access to affordable healthcare; and

Whereas, NSG at the CMS Office of Burden Reduction has stated that the enforcement mechanism against health plan violations is based on the idea of ‘voluntary compliance’, the only program of this type in the Federal Government where compliance is ‘voluntary’ but has failed to impose any financial penalties in the past 7 years on health plans for violation of HIPAA administrative simplification requirements; and

Whereas, The American Medical Association and Medical Group Managers Association have advocated to HHS/CMS that existing federal laws require health insurers to offer network physicians no-charge option for electronic funds transfer (EFT), but that has not stopped health insurers and/or their vendors from inappropriately charging for EFT; and

Whereas, At the same time, HHS/CMS has imposed numerous financial penalties on physicians and other providers in healthcare, for violations of HIPAA privacy rules which are governed by the same rules as the HIPAA administrative simplification requirements, (including financial penalties for failure to implement EMR, Meaningful Use (MU) and PQRS, MACRA, MIPS, “Open Payments,” Sunshine Act violations, and numerous others); and

Whereas, Physicians strongly disapprove of the failure by the NSG at the CMS Office of Burden Reduction to resolve complaints related to payments via non-compliant methods including virtual credit cards and for imposing fees for receiving EFT payments by health plans and clearinghouses, therefore be it

RESOLVED, That our American Medical Association 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) (Directive to Take Action); and be it further

RESOLVED, That our AMA 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 (Directive to Take Action); and be it further

RESOLVED, That our AMA 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 (Directive to Take Action); and be it further

RESOLVED, That our AMA, 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. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 10/11/21

AUTHORS STATEMENT OF PRIORITY

The inequity in the way that physicians are treated by CMS versus how health insurance plans are treated must stop. There are federal regulations that are supposed to prohibit health insurers from charging for electronic payments. Yet CMS has not enforced this law and as a result, there are increasing complaints of health insurers inappropriately charging for EFT. Physicians and their offices are on the front lines of patient care – the more time we must devote to administrative burdens, penalties, sorting out payment denials, deduction of processing fees from payments – is less time to see patients. The uneven enforcement of administration simplification requirements places the heaviest burden on physician offices NOT the insurance industry. This must stop, penalties must be enforced and imposed upon insurers as they are on physicians. Health insurers should be prohibited from charging fees for processing claims – the premiums paid to an insurer cover the expenses for an insured and that includes processing and paying the claim.

RELEVANT AMA POLICY

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; Reaffirmation A-14; Reaffirmation: A-17; Reaffirmed: BOT Action in response to referred for decision: Res. 805, I-16; Reaffirmation: I-17; Reaffirmation: 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