AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 614
(N-21)

Introduced by: New Jersey, District of Columbia, Oklahoma, Pennsylvania, South Carolina, Tennessee, California, American Society of Anesthesiologists, New York, Florida, American College of Allergy, Asthma and Immunology

Subject: Insurance Industry Behaviors

Referred to: Reference Committee F

Whereas, In 2000, the AMA with several state medical societies, led by Florida, California, Missouri and New York, and specialty societies, led by OB-GYN, and several individual physicians, successfully sued the commercial health insurance carriers in a RICO lawsuit. The settlement was substantial, paying costs of all parties and leading to at least two foundations, including the Physicians Foundation for Health System Excellence; and

Whereas, In 2009 the AMA again, with other partners, successfully sued the Aetna and Cigna groups of companies for $11 Million each with success for similar offences listed in the United Healthcare suit; and

Whereas, Many insurers are once again treating physicians and other claimants unfairly; and

Whereas, The recent published September 28, 2021 AMA Report "*Competition in Health Insurance: A comprehensive study of U.S. markets – an 2021 Update*" demonstrates increasing market share across the United States of certain insurance companies in certain regions of the United States and points out " Research finds evidence that insurer consolidation leads to the exercise of monopsony power vis-à-vis physicians in the form of lower physician earnings and employment." (page 3-4); and

Whereas, The health insurance industry in particular is using its market share to unfairly gain leverage against physicians and medical practices resulting in:

1) Unilateral reductions in reimbursements
2) Retroactive audits without cause
3) Manufactured claims denials
4) Egregious and unnecessary payment delays
5) Forced arbitration on abusive terms, requiring physicians to pay for the process
6) Scurrilous interpretation the AMA CPT Code and Vignettes to the disadvantage of the physician
7) Cancellation of contracts and/or arbitrary termination of certain providers and reduction of networks; therefore be it

RESOLVED, That our American Medical Association step up its ongoing review of the proper use of the AMA CPT Code and Vignettes in medical billing claims payments and its misuse by the US Health Insurance Industry (Directive to Take Action); and be it further

RESOLVED, That our AMA undertake as soon as practical a formal, legal review of ongoing grievous behaviors of the health insurance industry including: (1) a search for potential litigation partners across the medical federation; and (2) dissemination of the findings to the appropriate internal AMA divisions and Councils for review and preparation for potential civil, regulatory and/or legislative action by/in the US Court System, the US Federal or State regulatory agencies and/or the US Congress. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 10/11/21

AUTHORS STATEMENT OF PRIORITY
Growing Insurance Industry coding and payment Misbehavior effects most physicians. We need to act at this meeting to start what might be a several year process. Protection of physician practice viability and economics is our AMA CORE ACTIVITY. We need to authorize new policy to get going on this key issue, particularly in this time of "COVID." AMA is the expected and only organization to take on such a project.

RELEVANT AMA POLICY

Third Party Payer Coverage Process Reform and Advocacy D-185.986
1. Our AMA, working with interested state medical and national specialty societies, will develop model legislation and/or regulations to require that commercial insurance companies, state Medicaid agencies, or other third party payers utilize transparent and accountable processes for developing and implementing coverage decisions and policies, and will actively seek the implementation of such model legislation and/or regulations at the national and state levels.
2. Our AMA will work with specialty and service organizations to advocate that private insurance plans and benefit management companies develop transparent clinical protocols as well as formal processes to write / revise them; that those processes should seek input from the relevant national physician organizations; and that such clinical coverage protocols should be easily and publicly accessible on their websites, just as Medicare national and local coverage determinations are publically available.
3. Our AMA will advocate that when private insurance plans and benefit management companies make changes to or revise clinical coverage protocols, said companies must inform all insured individuals and participating providers in writing no less than 90 days prior to said change(s) going into effect.
Citation: (Res. 820, I-11; Appended: Res. 807, I-12)

Physician Reimbursement by Health Insurance and Managed Care Companies H-190.959
1. Our AMA shall make it a top priority to seek regulatory and legislative relief to ensure that all health insurance and managed care companies pay for clean claims submitted electronically within fourteen days.
2. When electronic claims are deemed to be lacking information to make the claim complete, the health insurance and managed care companies will be required to notify the health care provider within five business days to allow prompt resubmission of a clean claim.
3. Our AMA shall advocate for heavy penalties to be imposed on health insurance and managed care companies, including their employees, that do not comply with laws and regulations establishing guidelines for claims payment.
4. Our AMA will continue to encourage regulators to enforce existing prompt pay requirements.

Citation: Sub. Res. 713, A-02; Modified: Res. 714, A-03; Reaffirmation I-04; Reaffirmed: CMS Rep. 1, A-14; Reaffirmed: Res 132, A-14; Reaffirmed: Sub. Res. 715, A-15; Appended: Res. 805, I-18

Insurance Companies Use of Contractors to Recover Payments D-385.965
1. Our AMA will seek legislation to limit insurance companies, their agents, or any contractors from requesting payment back on paid claims to no more than 90 days after payment is made.
(a) Such legislation would require insurance companies, their agents, or any contractors to have a defined and acceptable process for physicians to dispute these maneuvers to get payment back on claims already processed, verified, and paid.
(b) Such legislation would ban insurance companies, their agents or contractors from using re-pricers and re-reviewers and to adhere to their own pricing and reviewing guidelines as agreed upon in their contracts with physicians.
2. Our AMA will pursue legislation to regulate self-insured plans in this regard and apply the same rules to Medicare and other federal plans.
Citation: Res. 215, A-09; Reaffirmed: BOT Rep. 09, A-19

Insurance Company Denial of Payment for Office Visit and Invasive Procedure Done on the Same Day H-385.944
Our AMA supports insurance company payment for evaluation and management services and procedures performed on the same day, where consistent with CPT guidelines.
Citation: Sub. Res. 829, I-97; Reaffirmed: CMS Rep. 9, A-07; Reaffirmation I-07; Reaffirmed: CMS Rep. 01, A-17

A Level Playing Field in Negotiations Between Health Insurance Companies and Physicians D-383.982
Our AMA will make passage of legislation in the US Congress to exempt physicians from antitrust actions in their negotiations with insurance companies a top legislative priority of the AMA, remain vigilant on this issue, continue to regularly provide updates on our AMA Web site and through other AMA communication tools, request sponsors nationally, and allocate appropriate funding and resources necessary to successfully advocate its passage into law.
Citation: Res. 202, I-11; Reaffirmed: Res. 206, A-19

Insurance Company Economic Profiling of Physicians D-406.996
Our AMA will: (1) take all appropriate steps to actively oppose all efforts by third party payers to rank, profile or otherwise "score" physicians purely for corporate cost containment purposes; and (2) widely publicize insurance industry economic profiling practices and how they impact patient care and access.
Citation: Res. 820, I-07; Reaffirmed: CMS Rep. 01, A-17

Inappropriate Bundling of Medical Services by Third Party Payers D-70.986
Our AMA will study the problems associated with inappropriate bundling of medical services, including the bundling of preoperative assessment in making the decision for surgery with the procedure, and present a report with potential solutions, including an analysis of legislative, judicial, and regulatory remedies.
Citation: (Res. 813, I-00; Rescinded: CMS Rep. 6, A-10)

Appropriate Use of Component Codes in Current Procedural Terminology (CPT) D-70.987
(1) Our AMA will pursue methods of wide distribution for existing coding products and services developed by national specialty societies in cooperation with the AMA and the CPT Editorial Panel. (2) Our AMA will advocate that the Department of Health and Human Services (DHHS) designate CPT guidelines and instructions as contained in the CPT Book and approved by the

CPT Editorial Panel as the national implementation standards for CPT codes. (3) The CPT Editorial Panel consider developing CPT coding combinations that comply with CPT coding rules and guidelines and that could serve as a basis for payer software programs.
Citation: BOT Rep. 8, I-00; Reaffirmed: CMS Rep. 6, A-10; Reaffirmed: CMS Rep. 01, A-20

Transition to ICD-10 Code Sets D-70.954
Our American Medical Association will develop systems to help physicians transition to the ICD-10 coding system.
Citation: Res. 810, I-09; Rescinded: CEJA Rep. 03, A-19