



CASE STUDY

MANAGED CARE ORGANIZATIONS AND EMERGENCY MEDICAL CARE – THE CALIFORNIA EXPERIENCE

Issue

Inappropriate retrospective denial of emergency care claims by managed care organizations (MCOs) based on lack of preauthorization or review of final diagnosis instead of presenting complaint.

ACEP Position Developed Jointly With Kaiser Permanente:

Health plans should cover medically necessary emergency services without requiring the health plan member to obtain preauthorization. These plans should cover emergency services provided to a health plan member in a hospital emergency department if the member presents with a condition that a prudent layperson, possessing an average knowledge of health and medicine, could reasonably expect to result in serious impairment to the member's health. This is the "prudent layperson" standard. Health plans should not be required to provide ED coverage

for members who do not meet the prudent layperson standard.

Emergency physicians should be required to notify the health plan within 30 minutes after the member is stabilized to obtain authorization for any promptly needed services; the health plan must respond to the request for authorization for any promptly needed services; the health plan must respond to the request for authorization for any recommended services within 30 minutes. If the emergency physician and the health plan cannot agree on a course of post-stabilization treatment, the health plan should be required to arrange immediately for alternate treatment for the member.

Background Information

MCOs usually pay emergency claims on the basis of a retrospective review process that can be unfair to patients and emergency care providers. Lack of preauthorization is a common reason for payment denial. In California, emergency physicians were frequently unable to

obtain timely preauthorization from the health plan or the primary care provider. Another common reason for denial was that the final diagnosis did not satisfy managed care criteria for emergency care reimbursement no matter how serious patients believed their condition to be prior to ED evaluation. For example, patients presenting to the ED with chest pain and receiving a discharge diagnosis of esophagitis had their claims denied by some MCOs. Because of inappropriate denials of emergency claims, Senate Bill 1832 (Bergeson) was passed in California to correct these and other problems and to guarantee MCO members access to emergency care.

Legislative History in California

Major provisions of SB 1832 passed in 1994 required that MCOs pay for emergency medical care for their members and they grant preauthorization in a timely fashion on a 24-hour basis while the patient is present if it is required routinely. In addition, MCOs must assume care of their members if the MCO and the emergency physicians do not agree on treatment options.

Kaiser Foundation Health Plan and the Permanente Medical group were instrumental in crafting this legislation. Cal ACEP members are very supportive of the Southern California Kaiser system already in place to handle its members in non-plan hospitals. This system has 24-hour, 7-day-a-week telephone access to Kaiser registered nurses and emergency physicians on behalf of Kaiser members. The California Association of HMOs opposed this legislation, but this powerful opposition was overcome using a coalition of supporters including Cal ACEP, the California Medical Association, and others. Early in the legislative process, Senator Bergeson dropped a controversial provision of the bill that would have limited MCO profits and administrative costs to 15% of incomes. The governor's office proved to be an obstacle due to concerns regarding the provision of "noncritical emergency care" and increases of reimbursement from managed care payers to noncontracting hospitals for that care. In his letter to the Senate on signing the bill, the

governor said that he would direct the Commission of Corporations to monitor the cost impact of the bill and recommend needed changes if increases occurred.

Cal ACEP was able to maximize its relatively small amount of funding with vigorous use of its extensive grass roots network and legislative key contact system to influence the legislative process positively. Their work included legislative testimony by active physician members. Cal ACEP and Kaiser emergency physicians have worked together for years, and their strong partnership was a key factor in formulating and passing SB 1832.

CAL ACEP/California Bergeson Bill

Arguments in Favor of this Bill

- It is unfair to patients to deny payment on retrospective review of a nonemergency that presented as a potentially serious condition.
- It is dangerous to seek permission from an MCO if a true emergency exists and time is of the essence.
- The bill unifies disparate definitions of emergency.
- EMTALA stipulates that emergency physicians must see all patients. Therefore, telling patients who are in the ED that the MCO will deny payment is unfair to the health care provider if the MCO made no attempt to educate their members on appropriate use of the ED.
- Denial of payment is tantamount to denial of services because patients will be deterred financially from seeking emergency care when it is appropriate to do so.

Arguments Against this Bill

- This bill would make access to EDs easier, thereby increasing costs.
- Who would define "prudent layperson?"
- Why should the MCO pay for inappropriate care, if they don't respond to a call from the ED within the time

limit, since the problem is not an emergency anyway?

Potential Proponent Organizations

- ACEP and Kaiser Permanente, health care advocacy organizations, and some members of the legislature
- Emergency nurses

Potential Opponent Organizations

- Some MCOs
- Primary care organizations
- Business groups

Summary

Retrospective evaluations and preauthorization of requirements of emergency claims should be based on patient perceptions of emergency conditions, not final diagnosis. A real-time claims adjudication process that involves physician-to-physician contact is a valuable adjunct that solves many emergency claims evaluation problems from the emergency patients' and MCOs' perspectives.

Cal ACEP's strategy in passage of the Bergeson bill was to work with an appropriate ally in the managed care industry. Their alliance with the Southern California Kaiser system was effective in building support for the concept of equitable claims evaluation by MCOs.

For more information on this issue,
Please contact Craig Price in the State Legislative Office at
800/798-1822, ext. 3236 or e-mail cprice@acep.org

David Yoon, MD, FACEP
Member, Board of Directors
California Chapter of the American College of Emergency Physicians
650.856.2286