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Washington Medicaid's New Plan: Non-Payment for ER Services 'Not Medically Necessary'

Last Fall, the Washington Health Care Authority (HCA) attempted to limit 'non-emergent' ER visits to three per year in an attempt to cut costs related to Medicaid beneficiaries' use of emergency departments. Physician and hospital organizations successfully challenged the HCA's proposal in court and the HCA lifted its October 1, 2011 implementation date. Now, the HCA has a new strategy for provider non-payment - stop paying for all ER visits it deems "not medically necessary in the ER setting." As in its previous proposal, the HCA will determine medical necessity based on diagnosis codes. If the principal diagnosis code does not require an ER setting for treatment, as unilaterally determined by the HCA, payment will be denied.

The HCA has chosen a different path for its new strategy. Unlike its previous attempt which was struck down by the courts for failure to follow proper rulemaking procedures, the HCA does not believe their new approach requires approval from CMS for a State Plan Amendment because, it states, medical necessity is a longstanding process that has applied to many types of services and will now apply to Emergency Room services.

The HCA's new medical necessity standard for denying payment will apply regardless of whether alternative settings for medical treatment exist, such as the availability of primary care physician services. And, while EMTALA laws require ER physicians to screen all patients for emergency medical conditions, only Medicaid managed care plans will be required to reimburse providers for screening exams in the ER. The HCA, which pays on a fee-for-service basis, will not apply the prudent layperson standard and instead will rely solely upon its own standards for medical necessity when paying for all ER services.

The HCA is targeting April 1, 2012 for implementation of this new policy.

We will continue to provide updates as significant developments occur. If you have questions regarding the new Medicaid policy, please contact Jay Packer, Marina's Director of Legal Services, at jpacker@marinabilling.com or (562) 809-3521.