WHA WISCONSIN HOSPITAL ASSOCIATION
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EDUCATIONAL EVENTS

July 28
The Winning Race: Diversity, Equity and Inclusion Coaching Clinic - Part 3: Equitable Messaging
Webinar

July 29
Designing for Patient Access Across the Acuity Spectrum to Improve the On-Demand Care Experience
Webinar

Visit www.wha.org for more educational opportunities

HHS Rule Includes Restrictions on Insurers' Retrospective Review of Emergency Department Visits

Comes as United and Anthem try to implement denials of emergency service

In an interim final rule published in the federal register on July 13, the U.S. Department of Health and Human Services (HHS) has signaled it is watching insurer practices that would deny some patient claims for emergency services.

The provision, included in the agency's rule related to out-of-network billing ("surprise medical bills"), specifies that insurers could not limit payment for emergency services solely based on the patient's ultimate diagnosis.

"That HHS specifically included this provision in the rule is significant and provides an important patient protection," said WHA Senior Vice President of Public Policy Joanne Alig.

At issue is whether an insurer should be able to determine after the fact that a patient should have sought care in an emergency room or somewhere else. Federal law and state law in Wisconsin require that insurers cover emergency services, and that in doing so apply an important patient protection known as the "prudent layperson

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GUEST COLUMN—UnitedHealth Group Earnings: What They Suggest about Patient Access to Care

By Rick Pollack, President and CEO, American Hospital Association


Rick Pollack

Today (July 15, 2021) UnitedHealth Group announced a jaw-dropping $6 billion in earnings in a single quarter. But not enough has been said about a big contributor to these profits: not paying for health care services. During the same quarter last year, the company noted its $9.2 billion in profit was due in part to "broad-based deferral of care." What that means in real-life: profit was earned off missed childhood vaccinations, reduced access to opioid misuse treatment and avoided emergency care for cardiac arrest. But even this isn't the full story.

Throughout the course of the pandemic, United pursued a number of changes to its policies to further restrict patients' coverage. United didn't just profit from avoided care, it actively sought to scale back what care it would pay for at the same time.

One of these policies: United's attempt last month to deny some patient claims for emergency services. This was met with appropriate outrage and the company has changed course—for now. However, in the last 12-18 months, United has quietly implemented a number of other coverage restrictions that allow them to spend less on actual patient care. These include:

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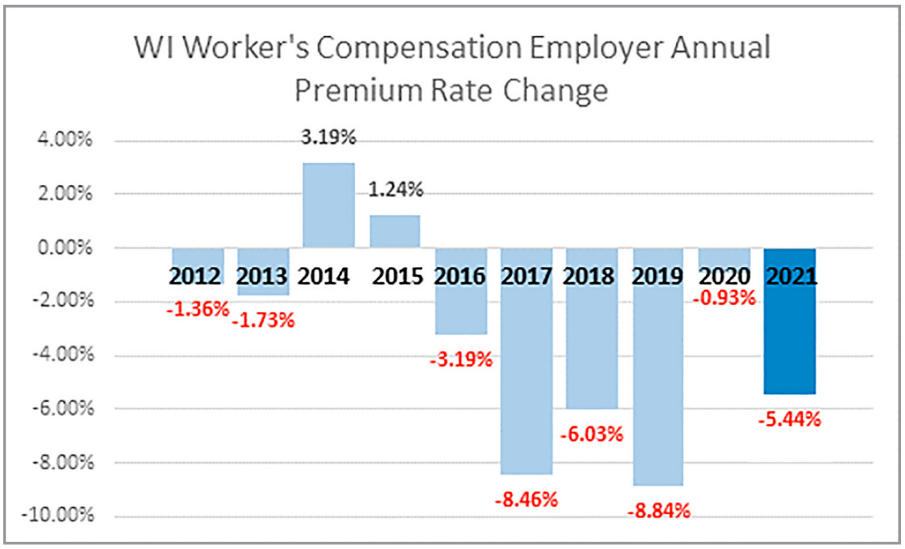
OCI Approves Sixth Consecutive Decrease in Worker's Comp Insurance Premiums

Fee schedules continue to be a "solution looking for a problem"



The Wisconsin Office of the Commissioner of Insurance has approved a 5.44% overall decrease in Worker's Compensation insurance premium rate levels beginning Oct. 1. The Wisconsin Compensation Rating Bureau, an unincorporated association of insurers and rate service organization with a governing board that includes five stock and five mutual insurers, announced on May 21 that it recommended the 5.44% decrease that has now been approved by OCI. As reported in *The Valued Voice* on May 27, WHA President and CEO Eric Borgerding observed, "Wisconsin continues to shine when it comes to trends in workers' compensation premiums for employers. Not only is the overall cost of workers' compensation continuing to drop for Wisconsin businesses, when a worker is injured at one of those businesses, they get great health care and back to work sooner."

Last week, Borgerding criticized the management representatives on the Worker's Compensation Advisory Council for proposing, again, a medical fee schedule to set prices for health care services rather than encouraging insurers to negotiate price and payment terms with health care providers. Borgerding added this week, "OCI has now approved the sixth consecutive year of decreased overall rates for work comp insurance premiums. That's the eighth decrease in ten years and without medical fee schedules, the epitome of a solution looking for a problem. It's well time to move on."

Proposed 2022 CMS Outpatient Rule Includes Higher Fines for Price Transparency Rule Violations

On July 19, the Centers for Medicare & Medicaid Services (CMS) introduced its proposed 2022 Outpatient Prospective Payment System (OPPS) Rule with a 2.3% overall rate increase.

Among the notable concerning changes proposed in this year's annual update is a dramatic increase in fines for hospitals CMS deems noncompliant with its hospital price transparency rule. Specifically, CMS proposes raising penalties from $300 per day to another $10 per bed per day for hospitals with more than 30 beds, with a maximum fine of $5,500 per day.

Unfortunately, CMS is also proposing to continue its policies from recent rules of lower reimbursements for 340B hospitals and site-neutral payment policies for clinic visit services at off-campus hospital outpatient departments.

On a more positive note, CMS is proposing reversing two policies that were scrutinized in the 2021 outpatient rule. The agency is rolling back proposals to eliminate the inpatient-only list and expand procedures eligible to be done in ambulatory surgical centers (ASCs)—two policies finalized in last year's rule. WHA had cautioned CMS in its comment letter last year to be cognizant of how these policies could impact the patient mixes hospitals serve and the potential for ASCs to cherry-pick the easiest and best paying patients and procedures if these policies were finalized without adjusting hospital reimbursements.

The rule also includes a number of proposed changes to the outpatient quality reporting program, including requiring hospitals to report vaccination rates on health care personnel, as previously proposed in the inpatient rule.

CMS also asks for comments on the rural emergency hospital model, a new Medicare provider type that was included in the 2020 year-end Consolidated Appropriations Act, 2021. This model would allow hospitals with fewer than 50 beds to continue providing emergency and outpatient services without needing to offer inpatient services, and would include a new reimbursement model with fixed payments.

WHA is continuing to analyze this rule in anticipation of the Sept. 17 comment deadline. Please contact WHA Vice President of Federal and State Relations Jon Hoelter with questions.

Grassroots Spotlight

WHA and Members Meet Virtually with Congressmen Gallagher, Kind

WHA and its members continued their virtual meetings with members of Wisconsin's congressional delegation, meeting with Congressmen Mike Gallagher and Ron Kind on July 20 to discuss the health care workforce shortage, the federal 340B prescription drug discount program and trends in telehealth. WHA members also relayed concerns about recent developments with health insurer policies that are detrimental to patient care.

Virtual meeting with U. S. Rep. Mike Gallagher

Virtual meeting with U. S. Rep. Ron Kind

DQA's Office of Plan Review and Inspections Meets with Stakeholders

The Office of Plan Review and Inspections (OPRI), the office within the Wisconsin Department of Health Services' (DHS) Division of Quality Assurance (DQA) charged with hospital and other health care facility construction and remodeling plan reviews and inspections, hosted an in-person stakeholder meeting on July 19. During the meeting, OPRI and DQA leaders introduced new staff, provided important updates for hospitals and other organizations and presented timely issues being considered by DHS.

As part of an overview of OPRI's activities, Office Director Fokruddin Khondaker and Construction Supervisor Holly Kitchell stressed OPRI's preference for digital construction plan submissions and indicated that they are working to enable electronic payment of the required fees. OPRI is completing its review of hospital plan submissions in about 15 days. To address a pandemic-related survey backlog, OPRI has rehired an OPRI surveyor as a limited-term employee. OPRI representatives also provided a technical overview of Aurora Medical Center in Grafton's modular expansion project.

DQA Director Ann Hansen updated the group on hospital-at-home activity in the state and the discussions within DHS and the Centers for Medicare & Medicaid Services aimed at refining the state and federal hospital-at-home authorities and standards and potentially extending current flexibilities.

Additional information about OPRI and its processes and activities is available on its webpage.

WHA Hosts Post-Acute Care Conference in 2021

WHA will host its fifth annual post-acute care conference this summer virtually.

Breaking Barriers to Complex Patient Care
Aug. 6, 2021
9 a.m. – 2 p.m.

Too often, barriers to complex patient care have resulted in delayed discharges from hospitals and hindered admissions to nursing homes and other post-acute care settings. The barriers to complex patient care have been identified, examined and debated. But now, with a focused effort by hospitals and their post-acute care partners, some of those barriers are beginning to break. Participants in this complimentary virtual conference will hear from colleagues who have implemented innovative approaches to complex patient care transitions. The session will also feature forward-looking insights from the administrator of the Wisconsin Division of Quality Assurance and a report on federal activity by WHA's federal lobbying team.

For more information and to register, click here.

Wisconsin Quality Residency Program: Reminder

Registration is open for the next cohort of the Wisconsin Quality Residency Program offered in cooperation by WHA and the Rural Wisconsin Health Cooperative. The registration deadline is Aug. 13, 2021.

QUALITY RESIDENCY *PROGRAM*

The program is designed to engage new and novice hospital quality improvement leaders in a 12-month track of education, leadership training and networking—all critical for success in the first two years on the job.

The program will run from October 2021 through September 2022 and will include a blend of in-person and virtual learning modules covering foundational topics including regulatory and accreditation requirements, quality improvement concepts, collecting data for analysis and decision-making and more.

The Wisconsin Quality Residency Program is a great opportunity for new quality leaders and quality staff. Program participants will have access to peer networking and coach calls, a dedicated email group for networking between sessions and experienced quality leaders throughout Wisconsin for support.

After program enrollment closes, guest registration will be available to accommodate individuals interested in attending one or more topics of interest on a first come, first served basis.

See the program summary and registration form for more information on topics and cost and for information on critical access hospital scholarships.

Falls Webinars and Coaching Sessions Enhance Hospital Safe Patient Handling Practices

On July 14, falls expert Dr. Patricia Quigley presented the "Safe Mobility is Fall Prevention" webinar, the first of four educational opportunities related to preventing and treating injuries resulting from falls.

The session drew 60 participants from Wisconsin hospitals and health systems, including patient safety specialists, registered nurse managers, regulation specialists, quality improvement specialists and physical therapists.

Quigley noted the importance of understanding and managing the risk of falls. She cautioned that when managing risk factors, it is not enough to look only at the patient's fall risk. It is important, too, Quigley said, to look at the patient's interaction with his or her environment, a major contributor to falls.

Quigley encouraged attendees to look at the age distribution of their hospitals' populations over the last year, noting that data shows people older than 75 frequently sustain injury with a fall, while those 85 and older sustain significant injuries that lead to death more often than in younger patients. She also emphasized the differences between screening and assessment, highlighting the importance of knowing population determinants of vulnerability such as age, cognition, fall history and comorbidities.

The falls webinar series continues with the following events.

Best Practices to Reduce Falls Associated with Toileting
Webinar: Aug. 18
12 p.m. – 1 p.m.
Coaching Session: Sept. 1
12 p.m. – 1 p.m.

Redesigning Post-Fall Management
Webinar: Sept. 15
12 p.m. – 1 p.m.
Coaching Session: Sept. 29
11 a.m. – 12 p.m.

Program Evaluation: Reengineering Fall and Fall Injury Programs (Infrastructure, Capacity and Sustainability)
Webinar: Oct. 13
12 p.m. – 1 p.m.
Coaching Session: Oct. 27
12 p.m. – 1 p.m.

This webinar series is sponsored by Wisconsin Office of Rural Health. All webinars and coaching sessions are offered at no cost. Click here for more information.

Nominations Invited for 2021 Global Vision Community Partnership Award

Nominations are now being accepted for the WHA Foundation Global Vision Community Partnership Award.

The award, established in 1993, provides recognition, financial support and public awareness of a community health initiative or project created in partnership with a WHA member that successfully addresses a documented community health need. Partnerships must reach across the community or population served, and the program must be an active, ongoing enterprise at the time of the nomination.

The deadline for nominations is July 30. Two Global Vision Community Partnership Awards will be given to deserving recipients in 2021.

For more information on the Global Vision Community Partnership Award, including eligibility, the selection process and nomination form, click here.

If you have questions, contact WHA Foundation Executive Director Leigh Ann Larson.

(GUEST COLUMN: UnitedHealth Group Earnings . . . continued from page 1)

- **Specialty Pharmacy Services**. Specialty pharmacy services are generally physician-administered, life-saving treatments like cancer and neurology infusions. In many parts of the country, United has been rolling out coverage restrictions that no longer permit patients to access specialty pharmacy therapies in a hospital outpatient department even if that is where their doctors practice. Instead, the patient must go to a pharmacy chosen by the insurer, which may be a pharmacy run by United's sister company, Optum. These policies disconnect patients from their care providers, can result in care delays, and introduce quality concerns as the primary provider is not involved in the delivery of the treatment. United has several variations of this policy in place around the country.
- **Surgeries.** United will no longer cover a large number of surgical procedures performed in hospital outpatient departments. In many instances, the insurer will only cover these surgeries if provided by an ambulatory surgical center, without regard for quality or a patient's existing relationship with their doctor. Optum has substantial investments in a number of ambulatory surgical centers.
- **Lab and Radiology Services.** United has announced plans to restrict coverage for many lab and radiology services provided by hospitals and outpatient departments. Many freestanding diagnostic centers cannot perform the advanced imaging that is required prior to some procedures, which often leads to patients needing to have their diagnostic work redone. This is not just costly and burdensome; it also can create care delays and expose patients to additional radiation.
- **Primary Care and Specialty Services.** United, the nation's largest employer of physicians, says it will begin restricting coverage for most physician evaluation and management services provided in hospital outpatient departments, including provider-based clinics, beginning Aug. 1. This means that patients who rely on hospital-based physicians for anything from primary care to specialist services to emergency department visits may have to seek a new source of care. This is likely to create major disruption in patient/provider relationships and create delays and backlogs as patients seek new providers.

United routinely rolls out these coverage restrictions throughout the year, meaning that enrollees purchase their health plans under one set of rules only to later learn that their providers and cost-sharing responsibilities have changed. This uncertainty alone can lead patients to avoid seeking care, which is the last thing we need as we all work to recover from the COVID-19 pandemic.

United's enrollees deserve better. They entrust billions of dollars each year in the company's hands with the expectation that their hard-earned dollars will be there for them when they need it. They deserve to have their care paid for and to have the choice of providers they were promised when they purchased their coverage. They deserve to not have their health insurer undermine their quality of their care.

(HHS Rule Includes Restrictions on Insurers' Retrospective Review of Emergency Department Visits . . . from page 1)

standard." The standard essentially says that if a reasonable person with an average knowledge of health and medicine thinks his or her health is in jeopardy based on his or her symptoms, then it is an emergency medical condition.

In early June, United announced that it would retroactively review claims and deny some patient claims for emergency services, but after significant public attention, the company has since announced it would delay implementation at least until the end of the COVID public health emergency. The public health emergency was extended by the federal government just this week for an additional 90 days. The United policy is similar to one implemented by Anthem/Blue Cross Blue Shield in five states, excluding Wisconsin, which is being challenged in court.

Comments on the rule are due to HHS by Sept. 13.

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