

Background Information: Medicaid Emergency Department Use

The Washington State Hospital Association (WSHA), the Washington State Medical Association (WSMA), and the Washington Chapter of the American College of Emergency Physicians (WA/ACEP) have together achieved a significant opportunity, delaying implementation of the state's policy of non-payment for emergency visits. April 1, 2012 was to have been the start date of the state refusing to pay for all emergency department visits deemed "unnecessary."

Legislative/State Agency Position: The Washington State Legislature and the Health Care Authority have serious concerns about overuse of the emergency department by Medicaid patients. These concerns are driven by three factors: (1) the severe state budget shortfall and the need to find state budget savings; (2) the belief that Medicaid patients rely too heavily on emergency rooms for care; and (3) concerns about hospitals building and marketing emergency rooms as reasonable sources of routine care. They can point to patients who used the emergency department more than 50 times a year and patients with a history of drug abuse who receive narcotic prescriptions in the emergency room.

Hospital/Physician Position: WSHA, WSMA, and WA/ACEP support the need to make fundamental changes to the health care system to make it sustainable into the future. We agree with the state that emergency departments are not the appropriate location for primary care. We must work together to reduce unnecessary health care expenses. Medicaid patients are an important population for us to work with, and we hope our efforts in directing them to appropriate care will be a foundation for working with other patients.

WSHA, WSMA, and WA/ACEP's collective position, however, has been that the state should work with providers and patients to ensure access to appropriate care, not simply deny payment. The three organizations have been working tirelessly with the Health Care Authority on this issue. We are very pleased that the current delay, enacted through a budget proviso, is a reasonable alternative to the non-payment policy. This new approach allows hospitals and physicians, rather than the state, to manage emergency department access and utilization and institute best practices. If implemented correctly, this alternative should assure patients are treated in the appropriate setting for the level of care they require.

The New Policy: The budget proviso gives hospitals the chance to avoid the no-payment policy by complying with seven "best practices" to reduce unnecessary emergency room use. If a sufficient number of hospitals *devise and implement* plans by June 15, 2012, we will avoid the no-payment policy. If not, the no-payment policy will be implemented on July 1.

Next Steps: We have pledged to work together and with the state to reduce unnecessary use of the emergency department. We are committed to making measurable change in emergency department usage and costs trends for Medicaid patients. Doing so will allow us to avoid the policy of denying payment to hospitals and physicians.

Several courageous legislators and our governor are trusting all of us to deliver. We have put our credibility on the line. State budget expectations are hinging on our performance. Making this successful is our responsibility, and we have merely eight weeks to implement the seven best practices. We plan to provide training and resources to hospitals and emergency room physicians to comply with the new requirements. We look forward to your participation! While the best practices are the first step, WSHA and its partners will be meeting on a monthly basis as the Emergency Department Workgroup to monitor changes in emergency department use and savings to the state.

Previous Proposals to Address Emergency Room Overuse:

2011 – The Three-Visit Limit Policy: During its 2011 session, the Washington State Legislature enacted a budget proviso limiting Medicaid payment to three “non-emergency” visits to emergency departments each year per patient. The list of conditions considered “non-emergent” was expansive and included many diagnoses that are clearly emergencies. The state projected to save \$72 million over 20 months with this policy. WSHA, WSMA, WA/ACEP, and Seattle Children’s sued the Washington State Health Care Authority over this plan. The organizations also got extensive media coverage about the policy. The hospitals and physicians won the first court hearing, and the October 1, 2011 implementation date was lifted.

January 2012 – No Payment Policy: In early 2012, the Health Care Authority changed its plans. Instead of a three-visit limit, the Health Care Authority proposed to stop paying for all Medicaid hospital emergency room visits when it deemed those visits “not medically necessary.” This standard meant that in order for the condition to be considered an “emergency,” the emergency room must be the medically necessary setting for the delivery of care, regardless of the availability of an alternative setting. The list of conditions considered “non-emergent” was narrowed significantly, with some of the most concerning conditions removed. We remained patently opposed, however, to any policy that would deny payment to physicians and hospitals.

The Health Care Authority believed it did not need rule-making or approval from the Centers for Medicare & Medicaid Services to implement the no-payment policy. It planned for an effective date of April 1, 2012, and projected a total savings of \$38 million over 15 months. WSHA, WSMA, and WA/ACEP vigorously fought this new proposal. Together, we made clear our objections to the state, the Centers for Medicare & Medicaid Services, the state legislature, our Congressional delegation, and the media. We also began to prepare for another possible round of litigation.

February–April 2012 – Legislative Negotiations: In February and March of 2012, WSHA, WSMA, and WA/ACEP met with key legislative, gubernatorial, and agency staffs to craft a legislative alternative to the payment limit policies. This alternative has been included in the form of a budget proviso in the final version of the state budget, which was approved on April 11, 2012. We particularly thank Representative Eileen Cody for her work on this issue.

For more information: Barbara Gorham, WSHA Policy Director, Access
barbarag@wsha.org or (206) 216-2512

April 16, 2012