



February 28, 2023

Mark Ghaly, MD, MPH
Secretary, California Health & Human Services Agency
1215 O St.
Sacramento, CA 95814

RE: Immediate Action Needed on Unfair Health Plan Payment Practices

Dear Secretary Ghaly:

As you know, California's hospitals are facing dire financial conditions. Huge pandemic-related losses, years of systemic underfunding, deteriorating performance among health plans in providing prompt and fair reimbursement, and unprecedented inflationary pressures have placed many hospitals at risk of closure or are forcing them to reduce services just to keep their doors open. This is why \$1.5 billion in immediate state financial relief for California's hospitals is needed.

We appreciate the recent opportunities we had to have hospital leaders meet with you and your agency and department leaders and share the challenging circumstances, including unfair payment practices by many health plans. In follow-up, we are reaching out to seek your partnership in protecting access to health care. Immediate action is needed to hold health plans accountable for meeting existing requirements in state law. California's legal and regulatory authority is clear; stricter state enforcement is needed. While this would not resolve Medi-Cal underfunding, which must be addressed, a series of actions would provide some relief and prevent even greater loss of access to hospital care.

Specifically, we request that you direct the Department of Managed Health Care, with the Department of Health Care Services, to take the following three courses of action:

Ensure Compliance with Prompt Payment Laws

1. Direct health plans to immediately pay all claims that have not been reimbursed, contested, or denied beyond statutory deadlines, including interest owed. Ensure that health plans include reimbursement for any uncontested portions of claims in these payments.
2. Require plans to specify all reasons for contesting or denying a claim within statutory deadlines.
3. To the extent additional information is required to complete a claim, direct health plans to specify — in writing — all the information that is needed, within statutory deadlines.
4. Require plans to process claims using information made available to them via electronic medical records and health information exchanges, and during the utilization management process.
5. Protect against irrelevant and unnecessary requests by requiring plans to specify, in writing and within statutory deadlines, why requested information is necessary to complete a claim.

Ensure Payment for Services Rendered

1. Direct health plans to pay in full for hospital care while patients await transfer to post-hospitalization services when a health plan has failed to arrange for a timely care transition.
2. Require plans to pay for all care that has been authorized or does not require prior authorization.
3. Require health plans to deem all care as authorized if the plan failed to authorize care within the statutory deadlines for arranging care in a timely manner.
4. Require health plans to pay for the entire course of hospital care in instances where services have been authorized or do not require authorization (e.g., emergency care), unless or until the health plans have fulfilled their legal obligations to notify both the hospital and physician of the decision to discontinue care and a care plan has been agreed upon by the three parties.

Enhance Oversight of Performance

1. Create a dashboard to track performance against state rules on prompt and fair payment and timely arrangement of care. Individual metrics should include, but not be limited to, unpaid claim amounts beyond statutory time frames, claim denial and contestation rates, patients awaiting care transitions while hospitalized, and prior and concurrent authorization speed.
2. Initiate non-routine audits of health plan practices and performance against the state's rules on prompt and fair payment and arrangement of care. With an understanding of the departments' existing workloads, prioritize investigations of health plans with the worst record on metrics captured in the performance dashboard.

Over the past three years, health care providers have scrambled to deliver life-saving care to patients during the pandemic, despite skyrocketing costs and intensifying workforce challenges. At the same time, many health plans have fallen short of doing their part to protect patients and access to care for the enrollees they are paid to serve.

Health plans' failure to pay bills on time has increased exponentially over the past several years. For example, a large health plan **has not paid one of its in-network rural hospitals for an entire service line since early 2022**, after the plan unilaterally changed its claim policy without notice.

Also, there has been a marked increase in patients who are hospitalized longer than necessary due to inaction and delays in arranging for post-hospitalization services. This results in suboptimal care, higher (and often unreimbursed costs), and financial savings for plans. In addition, despite the state's timely access and utilization management protections, many plans are failing to provide timely prior authorizations and concurrent reviews, leading to delayed care and slow or no reimbursement, often for care that has already been provided.

Hospital leaders have consistently raised these challenges with their health plan partners. However, over the past several years, the problems have only grown worse and are now simply untenable given hospitals' precarious financial conditions. It is time for the state to step in to ensure that California laws are being upheld. Swift enforcement of existing laws would provide relief to hospitals on the brink and give policymakers time to thoughtfully pursue additional remedies.

Making sure that health plans meet their obligations to promptly arrange and pay for care must be part of the state's strategy to protect access to care and avoid further hospital closures or reductions in services. We welcome the opportunity to discuss this with you and your team so we can work together to maintain access to health care for all Californians.

Sincerely,

A handwritten signature in blue ink that reads "Carmela Coyle".

Carmela Coyle
President & CEO

cc: Mary Watanabe, Director, Department of Managed Health Care
Michelle Baass, Director, Department of Health Care Services