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HEALTHCARE

Hospitals protest new California rules on patient billing

Physicians also dispute a ban on charging emergency room patients for balances not paid by insurers.

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Emergency room patients can no longer be stuck with the bill when hospitals or physicians disagree with insurance companies on their fees.

Under new state rules that take effect today, hospitals and physicians are barred from billing patients for the balance of emergency care not covered by insurers.

But the relief for patients may not last long. Hospitals and physicians are protesting the rules in court. Meanwhile, the state Supreme Court is set to hear another "balance billing" challenge next month.

And another court test may come sooner in a challenge by hospital chain Prime Healthcare Services Inc. of Victorville.

In that case, set for hearing this month, the state Department of Managed Health Care sued Prime. The state is seeking to bar Prime from billing insured patients for unpaid medical bills that the hospital chain contends it is owed from insurers and is seeking from patients as a last resort.

Department director Cindy Ehnes said she was moving forward with the ban on emergency room balance billing in spite of the legal disputes because of the hardship the practice creates for patients.

She called Prime Healthcare a "serial balance biller whose actions have unjustly threatened the credit rating of thousands of Californians." Ehnes said she wanted to take patients out of the middle of billing disputes between insurers, hospitals and physicians.

"No longer will Californians face the possibility that if they have to use an emergency room, they may be stuck with a bill, asking them to pay a second time for emergency care, which they already purchased with their [insurance] policy," she said.

The disputes typically occur when an insured patient ends up in an emergency room that is not in his or her carrier's network.

These hospitals and physicians may send insurers bills that are higher than what the insurance firms usually pay providers in their network. And insurers often balk, sending back less than the full payment.

Insurers accuse hospitals and physicians of taking advantage of the situation and sending out inflated bills. Hospitals and physicians counter that it is the insurers that take advantage by paying far less than reasonable and customary rates.

Patients wind up in the middle of such disputes when a hospital or physician bills them for the balance. "There was very little until now the consumer could do," said Mark Senkel of Tracy, Calif., whose credit was ruined after he refused to pay a balance bill.

"This is a great step in helping us. I'm going to use this now to get the insurance company and hospital to negotiate with each other and leave me alone, and then I have to go and repair my credit."

The department also announced that it would address what Ehnes called "the root cause of balance billing" -- the unfair or late payment of legitimate emergency room claims by insurers. She said the department would add resources to speed up the resolution of hospital and physician complaints over such practices.

Ehnes said she was confident the rules would pass legal muster in pending court tests.

"We believe our legal authority to protect consumers from balance billing is clear, and we believe our moral authority is even more clear," Ehnes said.

But several physician and hospital organizations have sued the department to block its enforcement of the ban on balance billing.

"The root cause of balance billing is HMOs underpaying providers," said Ned Wigglesworth, a spokesman for the California Medical Assn., which represents physicians.

The role of the state agency "is to regulate HMOs. Yet, instead of addressing balance billing by addressing the misfeasance of the industry it is supposed to regulate, the DMHC went after doctors and hospitals," he said. "The question is why."

Wigglesworth said the department had a poor record of enforcing physician payment complaints. Its current system, he said, is "like the old cartoon with a trash can below a bottomless complaints box."

Prime Healthcare lawyer Michael Sarrao said the new rules favored insurers and hurt

doctors and hospitals.

"The HMOs are going to pay ridiculously low rates; the DMHC doesn't do anything, and so the hospitals are going to have to sue HMOs to get paid anything," he said.

Sarrao said hospitals had no idea what they would get paid by insurers with which they had no contracts. One of Prime's hospitals in Chino, for example, treated two children for coyote bites within three months. In the first case, the insurer paid about 90% of billed charges. In the second, the same insurer paid less than 40%.

The new rules should make it easier for consumers to avoid problems with their credit ratings and repair those damaged in billing skirmishes, said Elizabeth Landsberg, a lawyer with the Western Center for Law and Poverty.

"Balance billing has real consequences for consumers," she said. "Some pay their bill not knowing they shouldn't have to. And those who don't pay the bill risk credit ruin."

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