



October 3, 2023

The Honorable Jason Smith
Chairman
House Committee on Ways & Means
1100 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways & Means
1100 Longworth House Office Building
Washington, D.C. 20515

Re: MGMA Testimony – “Reduced Care for Patients: Fallout From Flawed Implementation of Surprise Medical Billing Protections” Hearing

Dear Chairman Smith and Ranking Member Neal,

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) would like to thank the Committee for holding this important hearing on “Reduced Care for Patients: Fallout From Flawed Implementation of Surprise Medical Billing Protections” and appreciate the opportunity to provide feedback on this critical topic.

With a membership of more than 60,000 medical practice administrators, executives, and leaders, MGMA represents more than 15,000 group medical practices ranging from small private medical practices to large national health systems representing more than 350,000 physicians. MGMA’s diverse membership uniquely situates us to offer the following feedback.

The *No Surprises Act* (NSA) was passed by Congress as part of the *Consolidated Appropriations Act, 2021* and created certain patient protections from surprise medical bills. MGMA and our members applaud Congress for protecting patients’ access to necessary care while creating a pathway to ensure physicians and practices receive appropriate payment for out-of-network services. However, since its flawed implementation, certain NSA requirements have increased administrative and financial burden for providers, threatening the financial viability of group practices and access to care.

General Concerns

Since its inception, the independent dispute resolution (IDR) process has placed substantial burdens on medical groups. MGMA continues to hear how high administrative fees, overreliance on the qualifying payment amount (QPA), lack of insurer engagement during the open negotiation process, and the ongoing backlog in IDR cases has created an imbalance in power between the provider and insurer parties. Further, these ongoing challenges have made it nearly impossible for medical groups with fewer resources to even utilize the IDR process, thereby forcing them to accept lower reimbursements. MGMA urges Congress to work with the Administration to rectify these issues and align current implementation rules with congressional intent, which was to create a balanced system that did not largely favor one party over the other.

IDR Backlog

MGMA is aware that there are statutory timelines associated with the IDR process. However, there continues to be a significant backlog in cases, made worse by the fact that the Administration has still not fully reopened the IDR portal for filings of new IDRs, following the recent court decision. The backlog continues to worsen. These delays directly impact a medical group's ability to get reimbursed an appropriate amount for services that, in some cases, happened many months ago. The lack of payment for services rendered, coupled with inflation and ongoing administrative challenges, is simply unsustainable for medical groups and must be addressed immediately.

Communication and Implementation Guidance

From the onset of the NSA, medical groups have struggled to understand and stay abreast of the ever-changing requirements. While MGMA is relieved that recent NSA court decisions have sided in favor of providers, the reality is that the court decisions have largely required the publication of new guidance. Subsequently, medical groups are not given long to decipher this guidance and additional education from the Administration is lacking. MGMA urges Congress to encourage the Administration to engage with medical practices, health plans, and Independent Dispute Resolution Entities (IDRE) to provide education opportunities and resources.

Enforcement of Payments Due

MGMA members report they are not receiving timely payment following IDR process dispute settlements, with most payments being withheld beyond the 30-day reimbursement requirement. Moreover, we continue to hear that insurers who lose an IDR case are shamelessly not paying in accordance with the IDRE's decision. In these situations, does the Administration expect the medical group to take the insurer to court over nonpayment? MGMA urges Congress to shine a light on this predatory behavior — it delegitimizes the entire IDR process and puts medical groups' viability at risk.

Financial Barriers – High Administrative Fees

The current IDRE administrative fees are cost-prohibitive for providers, especially smaller practices with limited resources. Consequently, providers weigh incurring the financial burden of entering the IDR process or losing leverage in the market. Following a recent court case, the Administration recently proposed a new administrative fee, of \$150 for 2024. A fee of \$150 is still a 3x markup from the 2022 fee of \$50. These excessive fees also do not take into consideration the number of claims involved and depending on the service, can act as an additional barrier to accessing the IDR process.

IDR Portal

MGMA urges Congress to work with CMS to continue developing a more robust IDR Portal. Providers are struggling with redundancy and administrative burdens in the IDR dispute submission process. The existing process is equally as administratively challenging for larger practices that may have higher volumes of claims under the federal IDR process and smaller practices that do not have the staff and resources available to invest in manually tracking claims through the IDR process. These updates would be especially impactful for smaller and rural practices that struggle with financial viability.

Conclusion

MGMA thanks the Committee for its leadership on this critical issue. We look forward to working with you and your colleagues to address the ongoing issues associated with NSA implementation. If you have

any questions, please contact Claire Ernst, Director of Government Affairs, at cernst@mgma.org or 202-293-3450.

Regards,

/s/

Anders Gilberg
Senior Vice President, Government Affairs