

June 29, 2017

Joseph R. Swedish
Chairman
President and Chief Executive Officer
Anthem, Inc.
120 Monument Circle
Indianapolis, IN 46204-4903

Dear Mr. Swedish:

On behalf of the American Medical Association (AMA) and its physician and student members, I write to state our concerns with Anthem's policy in several states to deny coverage of many emergency services when the diagnosis is retrospectively determined not to have required emergency care. We ask that Anthem rescind this policy in states where it has taken effect, and halt implementation in all other states.

Physicians know that patients and caregivers should never second guess their instincts that emergency care is needed, nor should they be expected to self-diagnose to determine whether, for example, chest pain is a heart attack or indigestion. But with this policy, Anthem is asking that patients act as highly trained diagnosticians, skills our members spent many years of their lives acquiring. Moreover, Anthem's policy requires that they diagnose their acute symptoms at a critical and emotional moment, when time could be of the essence. The impact of this policy is that very ill and vulnerable patients will not seek needed emergency medical care while, bluntly, their conditions worsen or they die.

In addition to the harmful clinical impact of this new policy, the change also reduces the value of health insurance policies on which patients have spent thousands of dollars to have access to care, including emergency care. The same policy that once covered care for an emergency medical condition now leaves patients potentially holding the bag for the cost of that care. Physicians, by nature and law, do not consider coverage when a patient appears to be in need of emergency medical care. We believe patients who have purchased Anthem plans should not be penalized by post-facto judgments.

Importantly, we believe Anthem's policy may be in conflict with federal patient protections. Federal law requires that if group health plans and health insurers cover any care in the emergency department, then they must cover emergency services for emergency medical conditions as defined using a prudent layperson standard.¹ Similarly, plans in the individual and small group markets must cover emergency services as part of an essential health benefit package.² We are concerned that by incorporating a retrospective review, Anthem's policy may be inconsistent with these requirements. We also are concerned that Anthem's policy may be in conflict with many state laws, including those in Georgia

¹ 29 C.F.R. § 2590.715–2719A(b); 29 C.F.R. § 2590.715–2719A(b)(4)(i) defines emergency medical condition as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

² Section 1302 (b) of the Affordable Care Act

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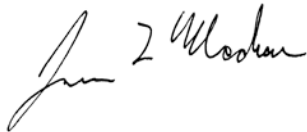
and Missouri, which have protections that equal, or may even exceed, the requirements of federal law.³

Finally, the AMA has long-standing policy supporting a prudent layperson standard for coverage of emergency care without a retrospective judgment in order to encourage patients to seek emergency care when it is needed.⁴ Moreover, at our recent House of Delegates meeting, new AMA policy was adopted that specifically targets Anthem's policy change and physicians' testimony passionately focused on what will undoubtedly be its harmful impact on patients.⁵

The AMA is committed to addressing health care costs and working with all stakeholders, including Anthem, to develop policies that improve the efficiency of our health care system and ensure that patients receive the right care at the right time. However, policies that inappropriately shift costs onto patients are antithetical to these efforts. We find Anthem's cost-shifting policy addressing emergency care to be objectionable and the likely consequences of its adoption to be harmful. As such, we ask that Anthem rescind this policy.

I would look forward to an opportunity to discuss this pressing issue with you. Please contact Emily Carroll, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at emily.carroll@ama-assn.org or (312) 464-4967 with any questions about this request or to schedule a meeting to discuss further.

Sincerely,



James L. Madara, MD

cc: Samuel Nussbaum, MD

³ O.C.G.A. 33-20A-9; R.S.M.O. 376.1367(1) and R.S.M.O. 376.1350(12)

⁴ AMA Policy H-130.970 states "...Emergency services should be defined as those health care services that are provided in a hospital emergency facility after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson, who possesses an average knowledge of health and medicine, to result in: (a) placing the patient's health in serious jeopardy; (b) serious impairment to bodily function; or (c) serious dysfunction of any bodily organ or part...."

⁵ New AMA policy adopted at the 2017 Annual AMA House of Delegates meeting states "our AMA will work with state insurance regulators, insurance companies and other stakeholders to immediately take action to halt the implementation of policies that violate the "prudent layperson" standard of determining when to seek emergency care."