

UnitedHealth to Replace Database, Settles Lawsuit

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As part of an agreement with New York Attorney General Andrew Cuomo, UnitedHealth Group has agreed to shut down a national billing database used by health plans to determine reimbursements to members who use out-of-network physician services.

The billing database, which is operated by the UnitedHealth Group (UHG) subsidiary Ingenix Inc., will be replaced with a new, independent database run by a qualified nonprofit organization. Under the terms of the agreement, UHG will pay \$50 million to help establish the new database. In addition, the nonprofit organization will develop a public Web site where consumers can research—before seeking services—how much they may be reimbursed for common out-of-network medical services in their area.

Aetna, the nation's third largest insurer, also has entered into an agreement with the New York attorney general to abandon its use of the Ingenix database in favor of the new one. Aetna also will contribute \$20 million over 5 years for the creation of the new database.

In February 2009, Aetna reached an agreement with the New York Attorney General's office to pay \$5.1 million to reimburse patients and physicians for claims involving out-of-network care. The settlement addresses charges that Aetna underpaid college student health insurance claims between 1998 and 2008 by more than \$5 million. Aetna will now pay back the students, and in some cases their physicians, for the underpayments plus interest and penalties as calculated under state law. The agreement reached with the New York Attorney General will affect underpayments made to students across the country.

The agreements follow an investigation by Mr. Cuomo's office into allegations that insurers were systematically underpaying consumers for their out-of-network medical expenses by saying that physician charges were higher than the "usual, customary, and reasonable" rates as calculated by the Ingenix database. As a result, insurers would only pay a percentage of the lower "usual, customary, and reasonable" rate, leaving consumers to pay their own portion plus the balance of the bill. The investigation found that insurers were underpaying consumers for out-of-network expenses by 10%-28% for medical services across the state.

According to the UHG officials, the agreement with the New York attorney general will help increase the transparency of information related to physi-

cian fees for out-of-network services.

"We are committed to increasing the amount of useful information available in the health care marketplace so that people can make informed decisions, and this agreement is consistent with that approach and philosophy," Thomas L. Strickland, executive vice president and chief legal officer for UnitedHealth Group, said in a statement. "We are pleased that an independent not-for-profit entity will play this important role for the marketplace."

Just days after reaching an agreement with Mr. Cuomo's office, UHG also settled a lawsuit with the American Medical Association and two state medical associations over the use of the Ingenix database. The \$350 million settlement is the largest monetary settlement of a class action lawsuit against a single health insurer in the United States, according to the AMA.

The lawsuit, which has been pending since 2000, alleged that UHG had been understating the "usual, customary, and reasonable" charges in payments to physicians and in reimbursing patients for out-of-network expenses. Under the class action settlement, UHG subscribers who submitted a claim for out-of-network services and were not properly reimbursed are eligible to receive part of the settlement. Physicians also could be eligible to receive payment under the settlement if they were underpaid by UHG and did not receive the balance from the patient.

But the biggest gain for physicians under both the AMA settlement and the agreement with the New York attorney general won't be money, but the rebuilding of the trust lost between patients and physicians, said Dr. Nancy H. Nielsen, AMA president.

When UHG and other insurers refused to pay the physician's charge, they were telling patients that the charge was unreasonable, creating tension between the patient and physician, said Dr. Michael H. Rosenberg, president of the Medical Society of the State of New York, which was part of the AMA's class action lawsuit.

Robert Laszewski, president of Health Policy and Strategy Associates LLC, a Washington-based consulting firm, said he doesn't expect to see significant changes in the "usual, customary, and reasonable" rates based on the creation of an independent database. The fundamental problem for physicians is that, regardless of who calculates the usual rates, there is still a wide discrepancy between the in-network rates available to most patients and the out-of-network rates paid by some. ■

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POLICY & PRACTICE

Agencies Issue Importer Guidance

Eight federal agencies, including the Consumer Product Safety Commission, have issued draft guidance on how importers can ensure that products such as toys are in compliance with U.S. laws and regulations. The document recommends that importers know the producers and distributors of the foreign products they purchase, along with hazards that could be associated with the products. The guidance recommends that U.S. companies establish procedures for identifying and minimizing risks associated with imported products. The document, "Good Importer Practices," would not be binding. It is designed to anticipate potential product hazards and offer ways for firms to mitigate those hazards, the agencies said.

Activity Drops in Young Children

A significant reduction in physical activity appears to occur between the ages of 3 years and 5 years, according to research published in *Medicine & Science in Sports & Exercise*. The researchers used accelerometers to measure activity among 244 children in New Zealand. With the results in mind, pediatricians and parents can intervene during those childhood years to promote physical activity, lead author Rachael Taylor, Ph.D., said in a statement. "Considering that target age range of 4 and 5 [years], it is probably the right time to encourage more outside play where possible, or enroll a child in gymnastics, tennis, or another structured activity," said Dr. Taylor, a professor at the University of Otago, Dunedin, New Zealand.

Bill Seeks Better Vision Care

Two U.S. senators have introduced bipartisan legislation aimed at avoiding undiagnosed and untreated vision problems in school-aged children. Sen. Kit Bond (R-Mo.), who is blind in one eye as a result of undiagnosed amblyopia during childhood, joined with Sen. Christopher Dodd (D-Conn.) to reintroduce the Vision Care for Kids Act. The bill would grant states money to provide professional eye exams and follow-up care for children who are identified by screening as needing care. It also would support existing state efforts to educate parents, teachers, and health care professionals about healthy vision for youngsters. "This measure would be a major milestone in partnership with the states to address the vision needs of our nation's uninsured children," Dr. Mike Repka, a pediatric ophthalmologist in Maryland and an American Academy of Ophthalmology officer, said in a statement.

SCHIP Children Need Medicaid

Medicaid is critical for continuing coverage of many children who leave the State Children's Health Insurance Program, while private insurance does relatively little for such children,

according to a study from Mathematica Policy Research Inc. Among children who left SCHIP during the study period, about 45% enrolled in Medicaid and 5% obtained private coverage. Thus, half were without care coverage upon leaving SCHIP; the children remain uninsured. In all but two of the states studied, California and Florida, children who departed SCHIP typically went without coverage for a year or more. "Coupled with the limited take-up of private coverage upon leaving SCHIP, these often lengthy uninsured spells suggest that many families lack access to affordable private insurance after leaving the program," the report said.

Doctors Obtain Medicaid Papers

The Louisiana Chapter of the American Academy of Pediatrics has obtained most of the documents it wanted on the state's proposed Medicaid reform plan, the group's executive director, Sandra Adams, said in an interview. The AAP chapter filed a lawsuit in state court last December asking the judge to compel the state to produce documents that contain details of the plan but had been denied to the chapter, she said. Once the lawsuit was filed, the state provided most of the documents the AAP chapter wanted, and Ms. Adams said she expects to get the rest. "We want to be clear, this is a lawsuit over a records request, not a lawsuit over stopping health reform," Ms. Adams said. Louisiana Gov. Bobby Jindal (R) has proposed allowing private insurance networks to administer the Medicaid program in some test areas. Currently, Louisiana's Medicaid reimbursement of physicians is among the lowest in the country, and physicians have expressed concern about potential rate cuts under the reform plan.

Thirdhand Smoke Hazard Noted

Smokers who believe that thirdhand smoke—tobacco contamination that remains after a cigarette is extinguished—harms their children are more likely than other parents to ban smoking in their homes, according to a study in *Pediatrics*. The researchers examined beliefs about the health effects of thirdhand smoke. They found that 65% of nonsmokers and 43% of smokers agreed that thirdhand smoke harms children. Strict rules prohibiting smoking in the home were far more prevalent among nonsmokers. But the belief that thirdhand smoke harms children was independently associated in both smokers and nonsmokers with rules prohibiting smoking in the home. In contrast, believing that secondhand smoke harms children appeared unrelated to rules against smoking in the home and car. "Emphasizing that thirdhand smoke harms the health of children may be an important element in encouraging home smoking bans," they concluded.

—Jane Anderson