

BACKGROUND

July 30, 2004

New payment disclosure requirements for hospitals and other health care providers

Effective Aug. 1, a new law will require hospitals and other licensed health care providers to give consumers a good faith estimate of a health plan's reimbursement for health care services. Described in a June *Newsline* article, the law was created in the waning hours of the 2004 session. While the intent of the new law is clear, there is little specific legislative direction regarding its implementation. This means that health care providers have a fair amount of flexibility in how they abide by the law. Below are some recommendations that may assist your facility. While there are certainly different ways to respond to a consumers' request for provider payment information, a patient-friendly, informative approach is advisable.

If you have additional questions after you review these questions and answers, please contact any of the MHA contacts listed below.

What payment disclosures are required under the new law?

The law's requirements vary depending on who is asking.

- *For people covered by a private health plan or Medicare:* The law requires that hospitals and other health care providers offer a good faith estimate of their reimbursement for a specific procedure from the health plan in which the consumer is enrolled.
- *For people who are on Medical Assistance (otherwise known as MA or Medicaid), General Assistance Medical Care or MinnesotaCare):* The law does not require providers to provide the information.

- *For consumers who lack health care coverage:* The law requires that providers offer a good faith estimate of what they expect to be paid.

NOTE: The text of the new law is attached at the end of this document.

Why were these requirements put into law?

Rep. Fran Bradley (R-Rochester), chair of the House Health and Human Services Finance Committee, advocated for this provision in an effort to help people become more informed about pricing when they are purchasing health care. He was frustrated by his inability to personally receive pricing information for a common medical procedure.

Are many requests for this information expected?

It is unlikely that hospitals will be flooded with requests. Consumers with health care coverage, for example, will be far more likely to seek information about what their out-of-pocket costs will be, rather than seeking information on what health plans pay hospitals. One group that may be interested in this information is people without insurance or people with high-deductible coverage. They may look to use this information to try to negotiate with hospitals for a payment below usual and customary charges.

So what if a consumer wants an estimate of his or her out-of-pocket costs?

Consumers with coverage, whether private or offered through government programs, should call their health plans or related government agencies for this information. For consumers without coverage, hospitals should address their requests as described below.

How does this relate to the broader billing and collections issue?

While they are not directly linked to one another, this new state requirement needs to be seen in the context of the increasing scrutiny that lawsuits and federal hearings have put on hospitals' billing and collection practices.

Hospitals may want to consider ways to address the desire for price disclosure that inspired this law. One step some hospitals are taking, for example, is to publicly disclose charges for the most common health care services.

What steps should hospitals consider taking to prepare for requests?

1. The first step could be to identify how to route calls internally and ensure your staff knows who will be handling these inquiries.
2. Hospitals may want to set up some standard policies for how calls regarding payment disclosure are handled. The staff members who are to handle these calls may need to understand the ways that different kinds of consumers will have access to payment information. Other decisions to address include whether

your hospital will respond in writing or orally, whether to establish a set timeframe for responding to requests and whether to request insurance enrollment verification.

3. Hospitals choosing to respond in writing may want to develop a form to use (see below).
4. Hospitals may want to prepare general information in advance regarding average charges for a handful of key procedures. This document could be useful when responding to people making general inquiries.
5. It may be helpful if hospitals tracked what requests are being made. This tracking would create a paper trail that would help if any questions arose about how requests were handled and what information was shared.

If a hospital develops a payment disclosure form, what information could be included?

Recommended information on the form could include:

- requester's name and address, for mailing purposes;
- procedure the request is regarding;
- health plan the consumers is inquiring about; and
- average payment range from that payer.

A form should also include disclaimer language that addresses the following points:

- You have requested the following payment estimate; this is the average reimbursement for the procedure you requested for the payer noted.
- This information is not based on a diagnosis.
- Professional fees charged by physicians and other providers not employed by the hospital are excluded from this estimate, as are ancillary fees such as physical therapy and x-rays.
- Given these limitations, do not rely on this estimate to provide a definitive prediction of payments or costs.

What information should different consumers receive?

When hospitals receive requests, they are likely to start by determining which group a consumer falls into — those with private or Medicare health care coverage, state coverage or no coverage.

For consumers with private or Medicare coverage

After asking consumers to identify their health insurer, hospitals need to provide information about the payment the insurer makes for a particular health care service. Regardless of how the response is delivered, disclaimer language should be included (see above).

For consumers with state program coverage

A hospital can direct them to the Department of Human Services.

For consumers without health care coverage

A hospital can start by providing their usual and customary charges for the procedure in question — that is the amount the hospital expects to be paid. Regardless of how the response is delivered, disclaimer language should be included (see above). A hospital may want to provide additional information about its charity care options or discount policies, including prompt pay.

Should the hospital ask consumers requesting this information to sign a HIPAA release?

The law does not preclude the use of a HIPAA release but it may well be unnecessary. These are intended to be average payment estimates that do not pertain to personal health information.

How quickly do hospitals need to respond to inquiries?

The law does not require hospitals to respond within a certain time frame. It would be reasonable to set a typical response time and be consistent in meeting it.

How do I handle requests that do not appear to come from consumers for their personal use?

The law does not limit requests to procedures that someone is likely to personally need. It also does not limit the number of procedures around which they can make payment inquiries. It does allow hospitals to limit the disclosure to payments from the health plan that the individual is enrolled in.

If a hospital receives a request of significant size, the law does not preclude hospitals from establishing longer time frames to respond or requiring fees. This option should be used sparingly, only for the purposes of covering costs.

How should hospitals handle requests from the media?

Hospitals should be as open and cooperative as possible when responding to media inquiries. There may be a need for significant education regarding health care's complex financing system and clarification of whether the disclosures required under this law are what a reporter really wants to know about. Notify MHA regarding any requests on this matter.

What additional steps is MHA taking?

MHA is meeting with the Department of Health regarding compliance issues. We will be following up with hospitals regarding their implementation of the new law.

Contact information

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2004 LEGISLATION REQUIRING PAYMENT DISCLOSURE

The new relevant section of Chapter 288 is as follows:

[62J.81] [DISCLOSURE OF PAYMENTS FOR HEALTH CARE SERVICES.]

Subdivision 1. [REQUIRED DISCLOSURE OF ESTIMATED PAYMENT.] A

health care provider, as defined in section 62J.03, subdivision 8, shall, at the request of a consumer, provide that consumer with a good faith estimate of the reimbursement the provider expects to receive from the health plan company in which the consumer is enrolled. Health plan companies must allow contracted providers to release this information. A good faith estimate must also be made available at the request of a consumer who is not enrolled in a health plan company. Payment information provided by a provider to a patient pursuant to this subdivision does not constitute a legally binding estimate of the cost of services.

Subd. 2. [APPLICABILITY.] For purposes of this section, "consumer" does not include a medical assistance, MinnesotaCare, or general assistance medical care enrollee, for services covered under those programs.