CAL/ACEP Presentation to FSSB 11/3/2010

Inadequate Enforcement of AB 1455

Impact on Emergency Care Providers in California

Issues facing Emergency Care Providers (ECPs)

- Federal requirement to provide care to all regardless of insurance coverage or ability to pay
- Huge uncompensated care burden, increasing numbers of uninsured and underinsured patients
- Inability to decline to treat enrollees even when payer repeatedly fails to pay appropriately
- Prohibition of balance billing of Knox-Keene regulated claims for emergency care services undermines ability of ECPs to obtain fair payment and negotiate fair contracting rates
- ECPs must rely on DMHC enforcement of AB 1455 regulations, or on the courts, to obtain fair payment

Issues facing Emergency Care Providers (ECPs)

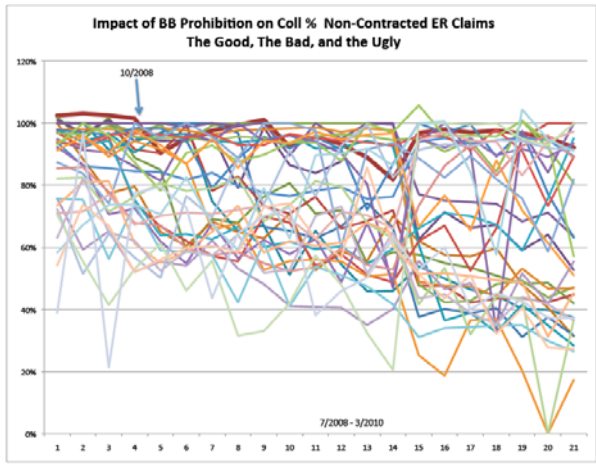
- According to the AMA, emergency physicians provide an average of $140,000 per year in charily care in California, which is 4 to10 times as much as any other medical specialty.
- ECP professional fees represent less than 5% of RBO outlays
- Typical Emergency Physician claim is less than $400.
- Average disputed underpayment less than $100.
- Typical ER physician must seek payment from more than 50 different delegated payers, each with their own payment policies, dispute processes, claims submission procedures, etc.

Issues facing Emergency Care Providers (ECPs)

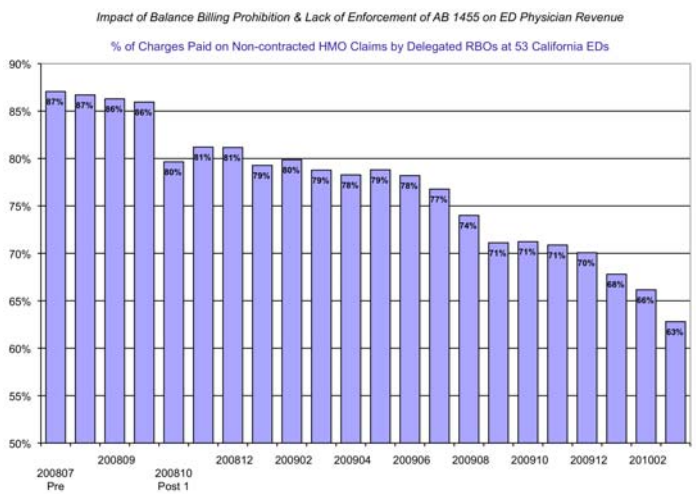
- Delegated payer model in CA exposes ECPs to:
  - complex payment scheme with multiple levels of sub-contracting and sub-sub-contracting medical groups and IPAs
  - coercive contracting due to market consolidation
  - unregulated practice management companies paying claims for RBOs
  - last-to-be-paid status when RBOs become insolvent due to EMTALA obligation to provide care even if no payments received
  - millions in unpaid claims from financially insolvent RBOs due to negligent delegation by HMOs and refusal of plans to cover bad debt

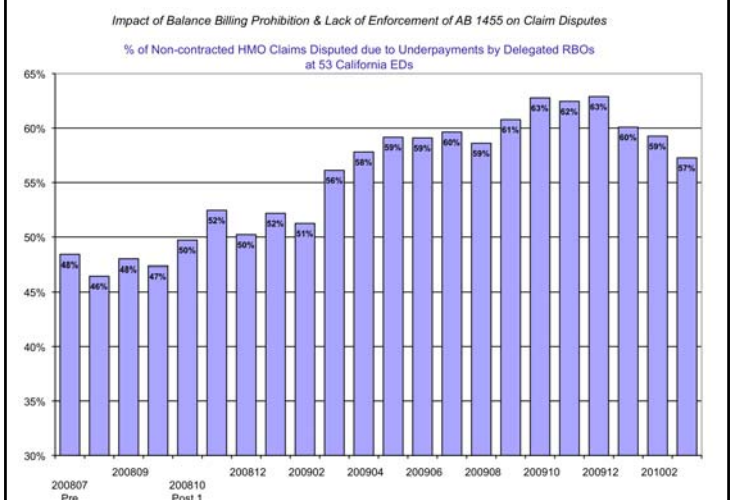
Issues facing Emergency Care Providers (ECPs)

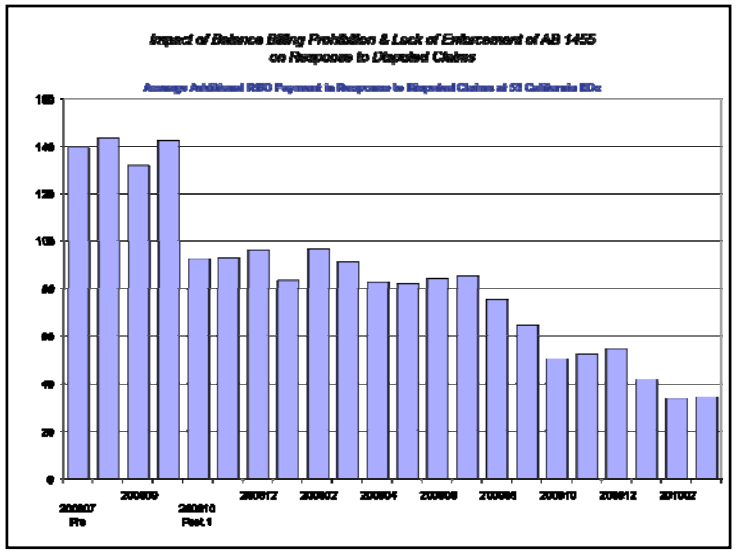
- Inappropriate claims down-coding, bundling, and denial of coverage, especially by RBOs
- RBOs frequently fail to respond to calls and provider dispute notices, limit the number of claims that can be addressed on a single call, lose claims (even when sent by registered mail), mail checks weeks after cutting them, mispay contracted claims, etc.
- DMHC's 'Independent' Claims Dispute Resolution process that relies on conflicted claims reviewers and voluntary participation by payers and providers
- Failure of DMHC to respond to provider complaints of patterns of inappropriate claims payment by RBOs
- Expensive and time consuming legal remedies to resolve millions of claims disputes with many plans and hundreds of different RBOs in court

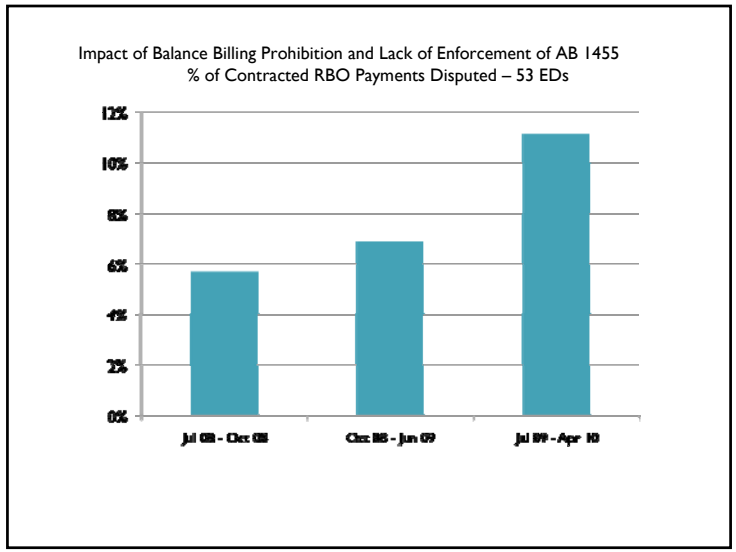


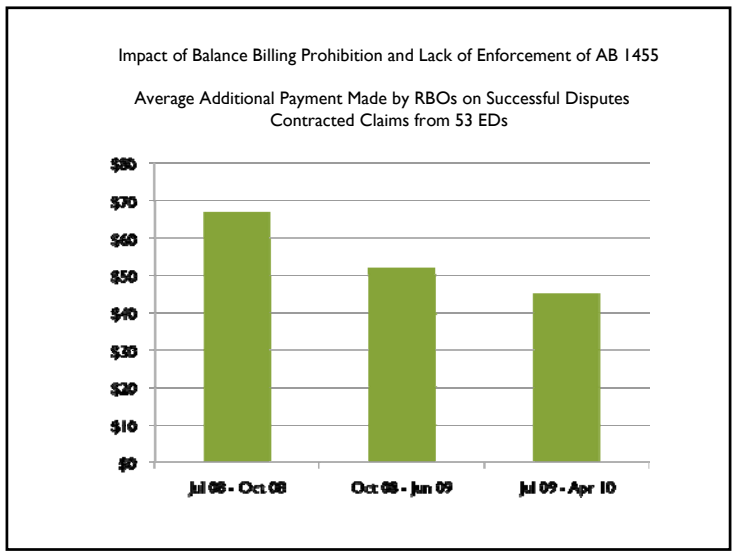
Several RBOs continue to pay non-contracted ECPs at close to their UCR charges after balance billing was prohibited, but many have taken increasing advantage of the ECP's EMTALA obligation











Complaints filed with the DMHC - HealthNet

- Paying non-contracted ECPs at 80% of Medicare for commercial services
- Complaint filed in 2004
- DMHC negotiated consent agreement Jan 2005:
  - no input from providers to provisions of agreement
  - required HN to use a database of usual and customary charges consistent with AB 1455
  - allowed HN to switch to another 'approved payment method' that results in the lowest payment
  - $250,000 fine for estimated $6 M in underpaid claims
  - required provider to resubmit claims for further payment – only about $600,000 eventually paid

- Result – most HMOs and BC and BS PPOs begin paying at close to median of usual and customary charges using Ingenix database

Complaints filed with the DMHC - RBOs

- Inland Healthcare Group
  - Complaint filed Sept 2006 - $189,000 underpayment
  - Paying non-contracted claims at expired contract rate
  - DMHC 'unwilling to respond to contract dispute'

- Prospect Medical Group
  - Complaint filed Nov 2008 - >$50,000 underpayment
  - Paying non-contracted claims at 125% of Medicare rates
  - No DMHC response to complaint as of Nov 2010

- Desert Oasis Medical Group (now Oasis Medical Group)
  - Complaint filed Dec 2008 - $165,000 underpayment
  - Paying non-contracted claims at approx 33% of usual and customary charges – inappropriate down-coding and denials
  - No DMHC response to complaint as of Nov 2010

Complaints filed with the DMHC – RBOs cont.

- Kern Medical Group
  - Complaint filed Dec 2008 - >$5000 underpayment
  - Pattern of inappropriate down-coding and bundling of codes
  - DMHC submits sampling of claims to Maximus over objections of ER group who requested unbiased reviewer – Maximus supports down-coding by Kern
  - ER group submits same claims to nationally recognized coding expert for blind audit – expert disputes Maximus audit and supports initial coding of claims by ER group
  - Emergency Medical Services Group vs Kern

    Kern inappropriately down-coding claims (same behavior as above)

    Kern spent $6 M of MediCal capitation dollars for audit of EMSMG claims, court determined that ER claims were coded appropriately

    Kern required to pay $575,000 plus retroactive claims adjustments and future payment at $75 case rate per claim for MediCal services
  - No further action by DMHC as of Nov 2010

Complaints filed with the DMHC – RBOs cont.

- Accountable
  - Complaint filed Nov 2009 - $7,000 in underpayment
  - Pattern of inappropriate down-coding and bundling of charges
  - No response by DMHC, no enforcement action as of Nov 2010

- Care First
  - Complaint filed Oct 2009 - >$11,500 underpayment
  - Inappropriate down-coding of claims
  - No DMHC response to complaint as of Nov 2010

- Anchor Medical Group
  - Complaint filed Apr 2010 - $20,300 underpayment – 61% of claims
  - Failure to acknowledge provider disputes, inappropriate down-coding
  - No DMHC response to complaint as of Nov 2010

Lists of Problem Payer RBOs Submitted to DMHC

Payer	Response:	Contact Information	Billed
Global Care Medical Group	All managed by MedPoint Management	La Ronda Carey, Supervisor	Electronically
Health Care LA	All payments must be approved by the	Ph:818-702-0100 ext. 233	Electronically
Mission Community	"Board of Directors" for each individual	PO Box 570590	Electronically
Riverside Family	health plan prior to forwarding for	Tarzana, CA 91357	Electronically
Watts	reimbursement. Claim payment is		Paper/Certified Mail
Bella Vista	delayed and frequently underpaid at		Electronically
El Proyecto del Barrio	incorrect rates. Checks do not always balance		Paper/Certified Mail
	Despite submitting claims electronically or certified mail		Electronically
	high volume of "no claim on file." Global IPA claims must be released to their		
	AP Department after manual flag from claims department.		
Care First Health Plan	Delinquent payment pattern, underpayment of claims	Claims Department	Paper/Certified Mail
		Ph: 818-702-0100	
		601 Patrero Grande Drive	
		Monterey Park, CA 91755	
Community Medical Group	All managed by Progressive Management Systems-merging to Heritage Netw	Rosetta Stringfellow, Manager	Paper/Certified Mail
Eastland Medical Group	Delinquent payment pattern	Ph: 818-707-9603	Paper/Certified Mail
Lakeside	Checks do not balance to EOB's. Fail to process claims correctly, denied as	email:Rosetta.Stringfellow@lakesic	Electronic
Verdugo Medical Group	"health plan' responsibility confirmed internal Finance error by claims	30125 W. Agoura Rd. Suite 200	Paper/Certified Mail
West Covina	department. George ext. 1370 confirmed this is a manual process he must	Agoura Hills, CA 91301	Paper/Certified Mail
	request corrected claim to reprocess for payment.		
Angels IPA	All managed by Synermed Medical Groups	Claims Department	Electronic
Community Family Care	Delinquent payment patterns, underpayment	Ph: 877-257-4235	Electronic
Employee Health Systems		PO Box 2002	Electronic
Exceptional Care Med Grp		Monterey Park, CA 91754	Paper/Certified Mail
La Salle Medical Group	Managed by MV Management Services	Claims Department	Paper/Certified Mail
	Delinquent payment patterns, underpayment	Ph: 323-257-7637	
Regal Medical Group	Delinquent payment patterns, underpayment	Claims Department	Electronic
		Ph: 818-654-3400	

Lists of Problem Payer RBOs Submitted to DMHC

Accountable Health Plan
Anchor Medical Group
Angels IPA
Bella Vista
Cal Care
Care First Health Plan
Caremore
Chino Medical Group
Community Family Care
Community Health Plan
Community Medical Group
Crown City Medical Group
DESERT MED GRP /OASIS IPA
Eastland Medical Group
El Proyecto del Barrio
Employee Health Systems
Exceptional Care Med Grp
Global Care Medical Group
Harriman Jones
Health Care LA
Health Plan of San Mateo
Hispanic IPA
Hispanic Physicians
Hispanic Physicians IPA
Inland Faculty Medical Group
Inland Valley
La Salle Medical Group
La Vida Medical Group
Lakeside
LaSalle Medical Associates
Medicino Familia Med. Grp
Mission Community
Molina
New Horizons Medical Group
Physician Alliance
Prairie Medical Group
Premier
Regal Medical Group
Riverside Family
San Miguel IPA
Serra Medical Group
Southwest Admin
Universal Care
Vantage Mdeical Group
Verdugo Medical Group
Watts
West Covina

DMHC response: "We will contact these RBOs and make sure that they communicate better with your ER group"

Complaints filed with the DMHC – Financially Troubled RBOs

La Vida Medical Group

Patients left in lurch with abrupt closing of La Vida Medical Group
Melissa Evans -- Daily Breeze – August 13, 2010

A large medical group that runs three clinics and administers health insurance plans for thousands of South Bay residents abruptly ceased operations this summer, leaving patients in the lurch and providers without payment.

La Vida Medical Group, based in Lawndale, is being sued by dozens of diagnostic centers, medical supply companies, physicians and others for millions in unpaid bills, court records show.

The California Department of Managed Heal h Care ordered nine health insurance companies to move patients out of La Vida Medical Group and its affiliates, Prairie Medical Group and La Vida Multi-Specialty Medical Center, after declaring the company financially insolvent.

Complaints filed with the DMHC – Financially Troubled RBOs

La Vida Medical Group

1/08-12/09 - La Vida fails to meet financial solvency standards

1/09 - Submitted complaint to La Vida for non-payment and underpaid claims totaling $157,255

2/09 - Filed complaint with DMHC and DHCS

3/09 - Submitted complaints to health plans

5/09 - Informed DMHC several times that La Vida still not compliant with AB 1455 and requested de-delegation

9/09 - Reached settlement agreement, but La Vida failed to meet terms of the agreement – left $60,000 unpaid

12/09 - DMHC orders freeze on new enrollments

4/10 - DMHC ordered health plans to prohibit assignment of risk

Complaints filed with the DMHC – Financially Troubled RBOs

La Vida Medical Group

- Provided formal notice of negligent delegation to health plans
- Some health plans paid outstanding claims
- Health plans unwilling to settle underpaid claims
- Other health plans refused payment after review
- Blue Cross paid claims for government sponsored programs
- Blue Cross refused to pay commercial claims
- DMHC facilitated payment of HealthNet claims
- Total outstanding bad debt - > $100,000

Complaints filed with the DMHC – Financially Troubled RBOs

New Horizons Medical Group

- 10/09 – filed dispute with New Horizons Medical Group regarding $65,000 in outstanding claims
- Informed previous group dissolved and attempting to reorganize
- 11/09 - Filed complaint with health plans and DMHC.
  DMHC unable to reach New Horizons management.
  DMHC assisted with payment for HealthNet claims
- 3/10 – Provided formal notification to health plans concerning negligent delegation
- 10/10 – Health plans paid outstanding claims except Blue Cross

Complaints filed with the DMHC – Financially Troubled RBOs

Vantage Medical Group

- 6/09-9/09 – did not meet DMHCs financial solvency requirements
- 2/10 – over 3300 outstanding claims
- 4-7/10 – multiple conference calls and e-mails to resolve claims disputes with sporadic responses
- 6/10 – submitted complaints to health plans resulting in eventual payment of claims
- 8/10 – notified DMHC
- Vantage's down-coding practices undermines contract negotiations

Complaints filed with the DMHC – Financially Troubled RBOs

Serra Medical Group

- 4/09 – Filed complaint with Serra Medical Group regarding outstanding and underpaid claims totaling $160,000
- 6/09 – Filed complaint with DMHC when Serra did not respond to complaint
- Serra continues to pay claims late and fails to acknowledge claims receipts
- Experiencing financial difficulty
- Does not include required interest payments

Using Small Claims Court to Address RBO Underpaid Claims

CalCare Medical Group

- 11/09 – Filed complaint with CalCare regarding 300+ Inappropriately down-coded, bundled and underpaid claims
- 11/09 – Filed complaint with DMHC and DHCS with no response to date
- 9/10 - Filed small claims lawsuit resulting in settlement of 58 underpaid claims
- Administrative expense outweighs settlement amount

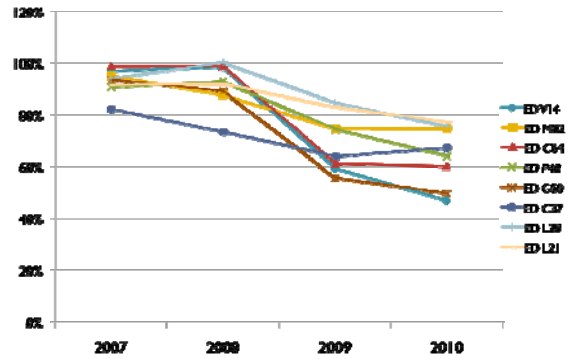
Causes of Action for Negligent Delegation to LaVida

1. In light of Prospect v. Northridge, Ochs v. PacifiCare, and Bell v. Blue Cross, Plans have a duty to ensure that RBOs pay delegated ECP claims.
2. Plans failed to ensure La Vida maintained sufficient capital to pay these claims
3. La Vida required by delegation contracts to maintain financial solvency.
4. Beginning in 2007, La Vida failed to maintain sufficient working capital, tangible net equity, cash to pay claims, unable to make timely payments.
5. La Vida submitted financial statements to Plans quarterly and annually (DMHC also informed).
6. October 2009, La Vida advised Plans (and DMHC) that its lender, Textron Financial, filed bankruptcy, and withdrew $4 M from LaVida account.
7. Despite this information, and notices from unpaid providers, Plans continued delegating to La Vida.
8. Plans knew this would result in unpaid ECP claims, ignored the warning signs, and advised providers to continue submitting claims to La Vida.
10. June 2010, *years* after La Vida first demonstrated financial instability, Plans finally discontinued capitation payments, terminated delegation contracts
11. Plans refused to cover unpaid ECP claims.

Deposition of LaVida Medical Director Christopher Chidi, M.D.: "La Vida doesn't have funds to buy a stamp."

Other ER Groups Experience with RBO Underpayment

Collections as a % of Charges at 8 Different Emergency Departments
Non-contracted HMO Claims



Other ER Groups Experience with RBO Underpayment

	Average Collected % of Charges 2008	Average Collected % of Charges 2009	Average Collected % of Charges 2010
Community Med Group	100%	48%	45%
ProMed Medical Group	100%	36%	33%
Regal	100%	27%	31%
Premier Physician Network	27%	34%	29%
Memorial Healthcare	82%	42%	31%
Prospect Medical Group	91%	37%	37%

Complaints Filed by Other ER Groups with DMHC

- Blue Shield, unfair payment pattern, complaint filed 2/07, case closed by DMHC with no response
- La Vida, unfair payment pattern, complaint filed 6/08, case closed by DMHC with no response
- Premier Physicians, unfair payment pattern, complaint filed 1/09, case closed by DMHC with no response
- Community Medical Group, unfair payment pattern, complaint filed 6/10
- Regal Medical Group, unfair payment pattern, complaint filed 6/10, still unassigned
- Chino Medical Group, denial of claim as non-emergent, complaint filed 10/07/10, as yet unassigned

The Santa Barbara IPA DMHC "Enforcement Action"

- Complaint filed by SC Emergency Med Group 2007 – 1000s of underpaid claims
- Pattern of inappropriate claims payment – paying commercial non-contracted claims at Medicare rates
- DMHC files 'cease and desist order' against SB IPA and BC
- SBIPA and BC challenge order in court – court says DMHC has jurisdiction to directly regulate RBOs
- May 2010 – DMHC negotiates settlement agreement with SB IPA

- Settlement agreement:
  - Failed to require the RBO to change the rates paid to non-contracted providers to conform to AB 1455
  - Failed to require the RBO to make restitution to the provider for the improperly paid claims
  - Failed to de-delegate the responsibility for payment of these claims to the delegating plan(s)
  - Failed to impose a fine on the RBO or their delegating plans for the violation of AB 1455
  - Required the IPA to participate in any IDRP for claims brought forward by SCEMG for three years

Lack of Enforcement of AB 1455 and RBO Financial Insolvency Impacts on Patient Care

Results in underpayment and non-payment of Emergency Care Provider claims by Plans and RBOs, which has led to:

- Reduced ability of ER groups to recruit and retain qualified providers to staff California ERs
- Abandonment of ER backup on-call rosters by specialists
- Increasing demands on financially troubled hospitals to support ER and on-call specialist services
- Closure of ERs, especially in already underserved communities
- Longer waiting times in over-burdened and underfunded ERs
- More patient transfers to other hospitals
- More ambulance diversions to hospitals further away

Proposed Solutions for Emergency Care Provider Payment

- De-delegate responsibility for payment of ECP claims back to HMOs - use risk pools to motivate RBOs to reduce unnecessary use of EDS through better access for urgent care services and improved chronic care management

- Establish 'reasonable value' standard for non-contracted ECP services to K-K enrollees based on median usual and customary charges using valid database (FAIR Health when available)

- Use unbiased, non-conflicted adjudicators (retired judges ?) and claims coding experts acceptable to both parties in DMHC's IDRP

- Require the DMHC to enforce AB 1455 violations in timely fashion, use meaningful fines to discourage inappropriate payment practices

- Develop transparent and meaningful DMHC corrective action plans for financially troubled RBOs

- Require ACOs and Medical Foundations to abide by AB 1455 regulations and meet Knox-Keene capital requirements