



## **DMHC DIRECTOR CINDY EHNES STATEMENT ON BALANCE BILLING REGULATIONS**

**October 14, 2008**

Good afternoon. My name is Cindy Ehnes and I am Director of the California Department of Managed Health Care.

We're here to celebrate an important victory for health care consumers in California.

Consumers will no longer be caught in the middle of billing disputes between providers of emergency care and payers. The frightening reality of "balance billing" will be history, because of new regulations going into effect that have been sponsored by the Department of Managed Health Care.

For the past few years, many consumers have been surprised to receive a large, unexpected medical bill for a hospital visit that should have been covered under their medical insurance. For these consumers, it has been anything **but** a celebration when being balance billed for emergency care they thought they had already bought and paid for. In these uncertain economic times, the last thing Californians need is to be paying twice for health care services.

Balance billing is a controversial practice that happens most often in emergency care settings, when a doctor or hospital is not contracted with the patient's health plan or medical group. Health plans and medical groups by law must pay only the reasonable and customary value of those services, which is often less than what the provider feels they are owed. Until now, this "balance" has been passed on to the consumer.

Governor Schwarzenegger has long stated his intent to protect consumers from any further instances of balance billing. In his July 2006 Executive Order, he directed the DMHC to develop regulations that will take the consumer out of the middle of billing disputes between providers and payers.

The new regulations restrict balance billing by making it an unfair billing practice, thus allowing DMHC enforcement actions against providers. By law, the DMHC has a duty to protect consumers, giving it the authority to bring these regulations forward.

It is the epitome of "unfair" for consumers to pay for emergency services twice. But just as the DMHC has an obligation to protect consumers, we also have an obligation to help providers be paid fairly and on time.

That's why the path to protecting consumers from balance billing has been a long odyssey. Throughout this regulatory process, the DMHC has attempted to also address the root cause of balance billing, which is unfair or untimely claims payment by health plans and medical



groups. Although earlier versions of our regulations attempted several ways to put a value on services, all were rejected by stakeholders.

But we won't abandon providers – those who serve on the front lines in emergency rooms and deserve to be paid fairly. Therefore, the DMHC is launching a special Fair Claims Payment Initiative, dedicated to faster investigations and enforcement of claims payment violations by plans and medical groups, such as low reimbursement and late or incomplete payments.

This is an effort to strengthen our claims payment oversight. We've already taken several major actions to enforce fair payment laws. We have recently sued a major provider, known as a "serial" balance biller, whose actions have unjustly threatened the credit rating of thousands of Californians. We've also issued a major fine against a California health plan for consistently underpaying or delaying payment of claims.

The DMHC has also made available a fair, fast and free way for providers to solve their claims disputes, through our Independent Dispute Resolution process. Unfortunately, physician advocates have discouraged their members to use this process, opting instead for other avenues. Therefore, the DMHC is conducting a test to prove its effectiveness. We recently submitted 10 provider complaints to this independent review and findings should be available in mid-November.

Another way that the DMHC assists providers to be paid fairly and on time, is through our highly successful Provider Complaint Unit, which has recovered more than \$10 million in additional payments to providers since it was established in 2005.

So, you can see that the DMHC is very committed to finding a solution to California's billing problems. Tomorrow, we are taking the first step. We're moving forward with our regulations to take consumers out of the middle. Because until the two sides can come to a compromise on other issues, patients should not be picking up the tab.

Thank you.