DEPARTMENT OF
Managed
Health Care

Assembly Bill 72 Report

March 4, 2019

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I. Executive Summary

The Department of Managed Health Care (DMHC) protects consumers' health care rights and ensures a stable health care delivery system. Pursuant to California Health and Safety Code (HSC)[1] Section 1371.30(k), the DMHC is required to provide a report to the Governor and Legislature regarding the implementation of Assembly Bill (AB) 72 (Bonta, Chapter 492, Statutes of 2016).

This report provides a summary of the utilization of the Independent Dispute Resolution Process (IDRP) related to the payment of claims by health plans to non-contracting individual health professionals who rendered services at contracting facilities. The report also summarizes data submitted by health plans for the period of July 1, 2017, through December 31, 2017, regarding health plan payments made to non-contracting individual health professionals at contracting facilities.

Key Findings:

- As of December 31, 2018, the DMHC has received 39 IDRP applications. Of those, 37 were ineligible or withdrawn and two are pending.

- The percentage of contracting facilities at which health plans paid one or more out-of-network claims to individual health professionals ranges from zero percent to 20 percent.

II. Introduction and Background

AB 72, codified in HSC Sections 1371.30, 1371.31 & 1371.9, amended the Knox-Keene Health Care Service Plan Act (Act) to prohibit the practice of "surprise balance billing" by non-contracting individual health professionals when enrollees receive non-emergency services at health plan contracting facilities.

As of July 1, 2017, an enrollee's cost share is limited to the enrollee's in-network cost-sharing amount for services provided at a health plan contracting facility, even if services provided at that facility were rendered by a non-contracting individual health professional.[2] Reimbursement to the non-contracting individual health professional(s), beyond the enrollee's in-network cost-sharing amount, is paid by the enrollee's health plan or delegated entity.[3] Health plans or their delegated entities are required to

[1] References to "HSC" are to the Knox-Keene Act as codified in the California Health and Safety Code Section 1340, et seq.
[2] HSC § 1371.9.
[3] *Ibid*.

reimburse non-contracting individual health professionals the greater of the average contracted rate or 125 percent of the amount Medicare reimburses on a fee-for-service basis for the same or similar services in the general geographic region in which the services were rendered.[4]

AB 72 required the DMHC to create an IDRP that would resolve claim disputes between non-contracting individual health professionals and health plans for services rendered at a health plan contracting facility. The decision resulting from the IDRP process is binding on both the health plan and the non-contracting individual health professional.

Additionally, health plans are required to annually report to the DMHC the number of payments made to non-contracting individual health professionals for services rendered at contracting health facilities, "as well as other data sufficient to determine the proportion of non-contracting individual health professionals to contracting individual health professionals at contracting health facilities... ."[5]

III. Independent Dispute Resolution Process Report

On September 1, 2017, the DMHC implemented an IDRP for claims payment disputes between payors and non-contracting individual health professionals for specified services rendered at contracting facilities (i.e., services subject to HSC Section 1371.9). As part of the implementation process, the DMHC developed an online IDRP submission website in partnership with an independent dispute resolution vendor.[6]

As of December 31, 2018, the DMHC has received 39 IDRP applications. Of those, 37 were closed prior to a reimbursement decision and two applications are pending.

- Seventeen, or 46 percent of the closed applications, were withdrawn by the applicant.
- Thirteen, or 35 percent, were ineligible for the IDRP, primarily because the facility was not a contracting facility.
- Five, or 14 percent, were non-jurisdictional, meaning the disputed claims concerned enrollees of a health plan product not licensed by the DMHC.
- Two, or five percent, were incomplete applications.

[4] HSC § 1371.31(a)(1).
[5] HSC § 1371.31(a)(4).
[6] The IDRP submission website is available at AB 72 IDRP.

IV. Payments to Non-Contracting Health Professionals at Contracting Facilities

The DMHC received data from full-service and behavioral health plans regarding payments they made to non-contracting individual health professionals at contracting health facilities.[7] The health plans reported this data for a period of only six months, covering July 1, 2017, to December 31, 2017.

The chart on Page 4 summarizes the data submitted by the 31 health plans subject to this reporting requirement.[8] The DMHC utilized a statistical analytics vendor to assist with the processing and analysis of this data.

The chart compares the total number of contracting facilities where a health plan paid at least one claim to a non-contracting individual health professional to a health plan's total number of contracting facilities. The DMHC used the number of contracting facilities the health plans reported in their annual network data to determine the percentage of facilities where an out-of-network claim was paid.

The percentage of contracting facilities where a claim was paid to a non-contracting individual health professional ranged from zero percent to 20 percent.

The chart also includes the total number of unique non-contracting individual health professionals that were paid by a health plan for performing services at a contracting facility.

Some health plans reported challenges gathering the data for the number of non-contracting individual health professionals that were paid for services rendered at a contracting facility. Many health plans pay claims to provider groups, not the individual health professionals who perform the services. Therefore, not all health plans collected the requested data in the same manner, affecting the reliability and comparability of the data. The DMHC is working with health plans and stakeholders to increase the accuracy and reliability of future data.

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[7] Health plans must include in the network submission required under HSC Section 1367.035 information related to the payment of non-contracting individual health professionals. (HSC § 1371.31(a)(4).) Submission of the network report is due on March 31 of each year. (28 CCR § 1300.67.2.2(g).) Since March 31, 2018, fell on a Saturday, health plans were allowed to submit these reports by Monday, April 2, 2018. (California Government Code § 6707.)

[8] See HSC § 1371.31(a)(4).

Payments Made to Non-Contracting Individual Health Professionals (NCIHP) at Contracting Facilities (CF)

Health Plan	CF Total	# of CF Where a NCIHP was Paid	Percent of CF where NCIHP was Paid	# of NCIHP Paid at CF
Aetna Health of California, Inc.	1,758	145	8%	288
Alameda Alliance For Health	449	4	1%	15
Blue Cross of California	2,946	316	11%	6,973
Blue Cross of California Partnership Plan (QIF)	1,269	53	4%	98
California Physicians' Service	3,380	529	16%	3,872
Chinese Community Health Plan	54	11	20%	39
Cigna Behavioral Health of California, Inc.	198	0	0%	0
Cigna HealthCare of California, Inc.	1,075	210	20%	2,338
Community Care Health Plan, Inc.	58	0	0%	0
Contra Costa County Medical Services	285	58	20%	329
County of Ventura	61	9	15%	92
Health Net of California, Inc.	2,745	105	4%	244
Holman Professional Counseling Centers	63	1	2%	1
Human Affairs International of California	340	0	0%	0
Kaiser Foundation Health Plan, Inc.	1,377	167	12%	2,396
Local Initiative Health Authority For L.A. County	665	4	1%	6
Managed Health Network	211	1	0%	1
Molina Healthcare of California	721	77	11%	706
Oscar Health Plan of California	478	33	7%	46
San Francisco Community Health Authority	244	4	2%	6
San Mateo Health Commission	138	6	4%	12
Santa Clara County	63	4	6%	104
Santa Clara County Health Authority	86	9	10%	48
Santa Cruz-Monterey-Merced Managed Med. Care Comm.	77	5	6%	18
Scripps Health Plan Services, Inc.	162	15	9%	111
Seaside Health Plan	55	0	0%	0
Sharp Health Plan	178	11	6%	48
Sutter Health Plan	291	25	9%	123
U. S. Behavioral Health Plan, California	195	38	19%	108
UHC of California	2,348	9	0%	11
Western Health Advantage, Inc.	131	0	0%	0

V. Conclusion

Since the passage of AB 72, the DMHC implemented an IDRP system that has received only 39 applications. Of these, 37 have been withdrawn or were ineligible for the IDRP, and two are pending. The DMHC also collected information from 31 health plans about payments they made to non-contracting individual health professionals at contracting facilities.

Although the payment data is for only six months, a very short period of time, it provides an important baseline by which the DMHC may measure and track health plan payments to non-contracting individual health professionals over time as the annual data is collected, compiled and analyzed.