

May 30, 2003

The Honorable Bill Harris
Chair, Senate Finance Committee
Ohio Senate
Statehouse
First Floor North
Columbus, OH 43215

Dear Senator Harris:

As introduced, the biennial budget for 2004-2005 included a provision that would have required all hospitals participating in the Medicaid program to accept, as payment in full, the lesser of 95% of fee-for-service rates or billed charges after providing service to an enrollee of a non-contracted Medicaid Health Management Organization (HMO). The House Finance Committee deleted this problematic proposal from the budget and the Ohio Hospital Association (OHA) is concerned that the Ohio Department of Job and Family Services (ODJFS) may be trying to reinstate the provision in the Senate omnibus amendment.

Ohio hospitals cannot support a provision that mandates a contractual relationship between private entities, especially considering the abysmal track record of HMOs in Ohio's Medicaid program. Ohio hospitals would be put at major financial risk, especially those without contractual relationships with HMOs, if this provision were enacted.

OHA's concern with the provisions includes the following points:

Mandated Contracts

- Hospitals currently have the fiduciary freedom and fiscal responsibility to refuse to sign any contract with an HMO that offers insufficient payments for provided services by passing the budget with this provision in place, the state rescinds that freedom and mandates all Medicaid hospitals to provide services to non-contracted HMO enrollees.
- The hospital, in most cases, and the HMO are not government entities, so the state, in effect, is requiring that two private parties have a financial relationship, regardless of the financial ramifications.

Price Setting

- As the system is currently set up, hospital administrators and HMOs are free to negotiate the rates at which an HMO will reimburse the hospital for services.
- Under this provision, the state is setting a price floor that an HMO cannot undercut. Yet at the same time, the state is also setting a price ceiling over which an HMO would not be financially responsible to negotiate inflated rates.
- Why would an HMO contract for over 95% of fee-for-service when it can legally pay that amount without a contract?

Increased loss on Medicaid Fee-for-Service

- In 2000, hospitals were reimbursed for only 90% of the cost of care provided to the average Medicaid consumer.
- This provision allows HMOs to skim another 5% off of the already insufficient payment.

HMO Influence on Consumers

- Because the fee-for-service system is based on average costs, HMOs could pre-identify high cost cases and steer them towards non-contracted hospitals, yet pay only 95% of the fee-for-service rate.
- For example, HMOs could begin to utilize non-contracted hospitals as hospice or long-term care facilities because of the guarantee of a low payment even for high cost cases.
- Without prior notice, an HMO-enrolled patient could be instructed to get care at a hospital not otherwise in the advertised provider network or convenient for the patient.

No Guarantee for Payment

- Even though this provision sets a price floor, under which an HMO cannot legally pay a hospital, it does nothing to ensure payment when an HMO becomes financially insolvent a problem many hospitals have faced due to a history of failed HMOs in the state.
- An HMO could steer their enrollees to a non-contracted hospital, declare bankruptcy, and not pay a penny to that hospital.
- Ohio hospitals have lost in excess of \$50 million due to the insolvencies of Medicaid HMOs in the last five years.
- The state must offer assurances that, in the case of HMO insolvency, it will reimburse the hospital, contracted or not, for the costs of providing care to the enrollees of the insolvent HMO.

Attempts in the legislature to enact “Any Willing Provider” legislation have not been successful over the last decade for the reasons outlined above. OHA respectfully asks you to support the House Finance Committee’s decision to delete this language from HB 95. I would welcome an opportunity to answer any questions that you may have.

Sincerely,

Bridget Gargan
Vice President State Policy and Advocacy

Cc Brian Perera, Senate Fiscal Analyst