



July 27, 2017

Chlora Lindley-Myers, Director
Missouri Department of Insurance
P.O. Box 690
Jefferson City, MO 65102-0690

Dear Director Lindley-Myers:

The undersigned organizations join to express deep concern about a recent policy change implemented by Anthem Blue Cross Blue Shield in Missouri (Anthem) that will deny coverage for emergency services when Anthem retrospectively decides the services were not for a true emergency. We think this policy is unfair to policyholders, and downright dangerous for patients.

Federal law¹ and state statutes² embrace the “prudent layperson” standard that requires coverage for emergency services for any symptom that leads a person possessing average knowledge of health and medicine to believe immediate care is required. That standard is a critically important patient protection that bases coverage on symptoms, not diagnoses. But the new Anthem policy turns that upside down and expects patients to diagnose their own condition and make a clinical decision that could be the difference between life and death. Is that chest pain just unwelcome indigestion, or is it a life-threatening cardiac event?

Anthem argues that it applies the prudent layperson standard when it retrospectively adjudicates claims. But Anthem’s employees are not laypersons, and they cannot begin to assimilate a prudent patient’s thought process when acute symptoms emerge and he or she legitimately believes life might hang in the balance.

We see the Anthem policy as a cost-shifting tactic that will have a dangerous chilling effect on patients. When policyholders learn that they might be held financially responsible for emergency department care, we worry some will delay or altogether forgo seeking vitally important and life-saving care at a time when they are most critically ill and vulnerable.

¹29 CFR 2590.715-2719A(b); and Sections 1302(b) and 2719A of the Affordable Care Act.

²Section 376.1350, RSMo, and Section 354.400, RSMo.

It is well-established that hospital emergency departments are occasionally used inappropriately, generating unnecessary costs and diverting precious resources. And we all are committed to developing policies to address costs and inefficiencies in our health care system. But we cannot do that by shifting costs onto patients who reasonably believe they need emergency services to address emergent health issues. We think Anthem's new policy violates both the letter and intent of the legal prudent layperson standard, and creates an untenable situation that is at best unfairly punitive, and at worst unacceptably harmful to patients.

We urge the Department of Insurance to enforce the prudent layperson law and take a very hard and earnest look at the new Anthem policy, especially its impact on the health and well-being of the consumers – our patients. We welcome the opportunity to discuss this important issue with you, and hope you will feel free to contact us at any time.

Sincerely,



Herb B. Kuhn
President and CEO
Missouri Hospital Association



Jonathan Heidt, MD
President
Missouri College of Emergency Physicians



Brian Bowles
Executive Director
Missouri Association of Osteopathic
Physicians and Surgeons



Thomas L. Holloway
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