



April 14, 2015

The Honorable Rob Bonta
Chair, Assembly Health Committee
State Assembly
State Capitol, Room 6005
Sacramento, Ca. 95814

Re: AB 533 (Bonta) – Oppose
Assembly Health Committee- April 21st

Dear Assemblyman Bonta;

We regret to inform you of our opposition to your AB 533 regarding patient's responsibility for out of network services by physicians. While we share your desire to remove the insured patient from undue financial obligations when they obtain services from out of network hospital based physicians we believe this bill places the entire burden on the physician when the health plan or insurer needs to be held accountable for network adequacy.

Radiologists and pathologists two of the hospital based specialties that typically contract with hospitals to provide 24/7 coverage for imaging and laboratory services. Similar to Emergency Room physicians they provide services to all hospital patients whether in the ER, inpatient or outpatient basis. Since they provide diagnostic procedures upon order of a physician they are not likely to interact neither directly with the patient nor before aware of their insurance status until after discharge.

Current law prohibits balance billing by a hospital based physician for emergency services needed to stabilize a patient in the hospital setting.

AB 533 would attempt to address the issue by limiting the patient's charges or cost sharing in such situations. It would require that the patient pay the non-participating provider at the same cost sharing basis as if the physician were in network, i.e. the same deductible or coinsurance as under their plan. AB 533 would also allow a plan enrollee to voluntarily consent to the use of a non-participating provider if they are notified 24 hours in advance, provided a cost estimate, and consent in writing.

We have concerns with this approach and the practical realities of how this would work in the hospital setting.

The issue of insured patients using a participating hospital but finding that some of the hospital based physicians may be non-participating or out of network needs to be addressed but it should be done in the context of the plan obligation to have an adequate network and provider participation. Hospital based radiologists and pathologists;

- Would prefer to contract with the plans that insure the patients that they serve
- The absence of contracts may be due to plans that provide contract terms on a “take or leave it attitude” with dramatic reductions in reimbursement
- A hospital based radiologist or pathologist provides services without knowing the insurance status of the patient until after the billing process begins, i.e. medical diagnostic tests and procedures services are ordered and provided while the patient is in the hospital and sometime later patient coverage information is provided to the radiology or pathology group to allow them to bill for their professional services. Notice to patients, determination of patient plan deductibles, and estimates of services to be provided would be impossible to provide. The bill should be amended to remove the penalty on the physician if they happen to bill a patient more than their cost sharing amount.
- We would not oppose protections on patient cost exposure in such situations but would suggest that plans be required to create a process to treat this similarly to an out of network referral for medically necessary services.
- The ultimate solution to this issue is to have a process to determine reasonable payment levels for the services provided. We support the suggestion made by the California Medical Association to amend the bill to include a binding Independent Dispute Resolution Process (IDRP) as established by DMHC.

We must oppose AB 533 in its current form but look forward to working with you to establish a reasonable process to both protect patients and ensure that hospital based physicians who are out of network with a health plan are adequately compensated by those plans.

Sincerely,

Bob Achermann
Legislative Advocate