

Greater Heartland HFMA 2022 Spring Conference

Federal and State Legislative Update

Andrew Wheeler

Meghan Travis Henderson

Agenda

- Fiscal Condition of Missouri Hospitals
- Federal Legislative Update
 - Congressional and Political Environment
 - > Federal Advocacy Initiatives
- State Legislative Update



Fiscal Condition of Missouri Hospitals

	Total	IPPS	САН	Rural
Average Operating Margin **	3.13%	3.82%	-0.79%	0.41%
Governmental and Self Pay Payor Mix *	68.9%	69.5%	71.7%	75.4%
Commercial Payor Mix *	31.1%	30.5%	28.3%	24.6%
% With Positive Operating Margins	59.7%	61.2%	50.0%	46.9%
% with Negative Operating Margins	40.3%	38.8%	50.0%	53.1%

^{*}Based on gross revenue

^{**}Includes Paycheck Protection Program and Provider Relief Payments

Federal Legislative Update

117th Congressional and Political Environment

- House 221 Democrats, 209 Republicans and 5 vacancies
- Senate 50 Republicans, 48 Democrats and 2 Independents
- Conventional wisdom suggests midterm elections usually go against the President's party (34 Senate and all 435 House seats)
- Less than one month of legislative days until election
- Title 42 of the Public Service Act prohibits boarder entry when the Director of Disease Control believes there is a serious danger to the introduction of disease into the United States

117th Congressional Actions

- 13,898 bills and resolutions introduced
- 120 bills signed into law
- 39 signed into law in 2022
- Suicide Training and Awareness Nationally Delivered for Universal Prevention Act of 2021 or the STANDUP Act (S. 1543)
 - Gives preference to state, tribal and local education agencies that plan to implement evidence-based suicide awareness and prevention training policies when HHS awards certain mental-health grants
- Dr. Lorna Breen Health Care Provider Protection Act (H.R. 1667)

117th Congressional Actions

- Consolidated Appropriations Act of 2022 (H.R. 2471)
 - > \$1.5 trillion spending bill that funds the government through September 30
 - > Increases non-defense spending by 6.7% and defense spending by 5.6%
 - > Provided \$108.3 billion for HHS, an increase of \$11.3 billion or 8.6%
 - > Extends telehealth flexibilities for 151 days after the end of the COVID-19 Public Health Emergency
 - > 340B eligibility protections through the end of 2022

117th Congressional "To Do" List

- President's budget
- Build Back Better
- Ukraine support
- Governmental funding expires October 1
- Additional COVID-19 funding (?)
- Sequester and PAYGO Moratorium (?)

Advocacy Needed

- Market basket updates
- Health care workforce
- Mental health
- COVID-19 support
- Telemedicine
- 340B protections
- White Bagging
- Medicare Advantage Prior Authorizations

PROFILE OF MISSOURI HOSPITALS



34:1

BUSINESS MIX

720,267 admissions 24,701,519 outpatient visits

FOR EVERY INPATIENT ADMISSION, HOSPITALS TREAT **34 OUTPATIENTS**

- 67 Medicare acute Inpatient Prospective Payment System hospitals
- 35 critical access hospitals
- 5 federal military or veterans hospitals
- 5 general or specialty pediatric hospitals
- 15 psychiatric hospitals
- 6 long-term, acute care hospitals
- 6 rehabilitation hospitals
- 30 for-profit organizations
- 110 tax-exempt organizations
- 69 private, not-for-profit organizations
- 30 state or local government acute care hospitals
- 6 psychiatric hospitals owned by the Department of Mental Health

MHA MEMBERS ARE FISCAL CONTRIBUTORS TO THE STATE, COUNTIES AND CITIES THEY SERVE

\$26.1 billion — gross state product linked to Missouri hospitals

\$11.4 billion — combined payroll and benefits provided to employees of Missouri hospitals

172,013 — number of full-time and part-time workers employed by Missouri hospitals

HOSPITAL PAYER MIX 45.5% Medicare and Medicare Advantage 14.9% Medicaid and Medicaid Managed Care 30.0% Commercial and Managed Care 1.1% Workers' Compensation 2.7% Other Government 5.8% Self Pay OF HOSPITAL BUSINESS IS FROM A GOVERNMENTAL PAYMENT SOURCE WITH REIMBURSEMENT LOWER THAN COST

4 IN 10 HOSPITALS IN MISSOURI OPERATE WITH NEGATIVE OPERATING MARGINS

HOSPITAL FINANCIAL PERFORMANCE (based on latest available data - 2020)

3.13% AVERAGE OPERATING MARGIN

Missouri hospitals would have performed poorly without COVID-19 provider relief and Paycheck Protection Program support. It is estimated that operating revenue would have been \$770 million less in 2020, which would have resulted in an estimated -3% operating margin.

COMMUNITY BENEFIT

\$1.8 billion in uncompensated care \$620 million in Medicare unpaid cost \$628 million in Medicaid unpaid cost \$516 million in donations and health professional education cost



FOR EVERY \$1 IN PROFIT, HOSPITALS SPEND



MEDICARE NET REALIZED PAYMENT RATE INCREASE FOR FY 2023

	INPATIENT PPS	OUTPATIENT PPS	
Market basket	3.1%	2.0%	
Reinstatement of sequestration	-2.0%	-2.0%	
Net realized Medicare payment rate	1.1%	0.0%	



Medicare Market Basket Updates

- According to MedPAC, Medicare margins for 2020 was negative 8.5% including Provider Relief Funds and would have been negative 12.6 without PRFs
- Inflationary pressures
- Medicare sequestration (2%)
- PAYGO (4%)
- Urge Congress to intervene and encourage CMS to reassess market basket updates

MEDICARE MARKET BASKET UPDATES MUST BE REASSESSED

Like most economic sectors currently experiencing inflationary pressure, hospitals are incurring higher costs to treat their patients. According to the American Hospital Association's 2022 Environmental Scan, total hospital expenses per adjusted discharge increased 17% between 2019 and 2021. Specifically, this is a result of labor expenses increasing 16%, supply expenses increasing 20% and drug expenses increasing 37%. Further, MedPAC commented within its March 2022 report to Congress that the cost to treat Medicare beneficiaries in 2020 has increased 12.6% for services paid under the Inpatient Prospective Payment System and 24.4% for services paid under the Outpatient Prospective Payment System MedPAC also reported that Medicare spending in 2020 increased at a slower rate.

In Missouri, hospitals already were enduring thin operating margins with the average being 3.13% in 2020. While historically this has at least been sufficient to allow facilities to reinvest in capital needs and remain viable, the number of hospitals that generate positive margins versus those that operate with negative margins is distressing. During the first year of the COVID-19 public health emergency, four in 10 Missouri hospitals reported losses, as did half of all the state's rural hospitals. Without the COVID-19 provider relief payments received by these facilities, the number of hospitals operating with losses would have been higher, driving the average operating margin much lower. The provider relief payments helped mask much of the inflationary cost incurred during 2020 and 2021, and as these payments are drawn down and exhausted, hospitals are left with traditional payment mechanisms to cover the high inflationary cost.



More than 63% of hospital revenue is generated from a governmental payment source with reimbursement rates below cost. According to MedPAC, hospital Medicare margins for Inpatient and Outpatient PPS hospitals are projected to be -9% in 2023. Although MedPAC

cites significant inflationary pressure on already negative margins, CMS is expected to increase Medicare IPPS payments by 3.1% and MedPAC recommends increasing Medicare OPPS payments by 2.0% for fiscal year 2023. Once sequestration begins reducing payments by 2% in July, the effective payment increase will be 1.1% for IPPS services and 0.0% for OPPS services. This is not a sustainable model, and MHA asks Congress to intervene and encourage CMS to reassess the payment rate increases needed to keep hospitals fiscally viable for federal fiscal year 2023. Until Medicare reassesses and adjusts the payment increases to appropriate levels, MHA urges Congress to continue the sequestration moratorium.





Proposed Medicare FY 2023 Payment Increases

	IPPS Operating		LTCH	IPF	IRF	SNF	
	Operating *	DSH	Capital				
Press Release	2.7%			2.7%	1.5%	2.0%	-0.7%
Economic Impact Analysis	1.4%	-7.82%	-0.4%	0.7%	1.5%	2.0%	-0.9%
Proposed Rule Reference	28,705 and 28,711	28,715	28,730 - 28,732	28,735 - 28,736	19,438 – 19,439	20,259 – 20,261	22,797- 22,798
Sequestration	-2.0%	-2.0%	-2.0%	-2.0%	-2.0%	-2.0%	-2.0%
Net	-0.6%	-9.82%	-2.4%	-2.7%	-0.5%	0.0%	-2.9%

^{*} Includes market basket, DRG changes, wage index budget neutrality, expiration of MDH, and application of imputed floor, Frontier State wage index and outmigration adjustments.

Strengthen the Health Care Workforce

- CAA of 2021 added 1,000 Medicare-funded residency slots
- Dr. Lorna Breen Health Care Provider Protection Act (H.R. 1667) aims to prevent suicide, burnout and behavioral disorders among health care professionals
- Resident Physician Shortage Reduction Act of 2021 (S. 834 / H.R. 2256) would increase Medicare-funded residency slots by 2,000 per fiscal year from 2023 – 2029

STRENGTHENING THE HEALTH CARE WORKFORCE

A hospital's ability to care for its patients largely hinges on the quality of the staff, especially those on the front lines of care. The ongoing COVID-19 pandemic has stretched the capacity of Missouri's health care system and proven that the key component to a successful response is a sufficient supply of health care practitioners resilient enough to meet care demands without succumbing to exhaustion. The predominant challenge for hospitals throughout the pandemic has been maintaining its health care workforce.

The pandemic exacerbated workforce challenges that predated COVID-19. These challenges include a lack of practitioners entering the field of health care, staff mental health and burnout, inflationary effects on wages, seasoned practitioners who are retiring, increased numbers of staff employed by temporary agencies, and a shift from patient care into administrative functions to meet government and insurer demands. MHA urges Congress to consider a national initiative to strengthen the infrastructure to train and sustain the health care workforce of Missouri and the nation.

MHA wants to thank Congress for enacting the Consolidated Appropriations Act of 2021 that will increase the number of Medicare-funded residency slots by 1,000 over a five-year period. This will enable hospitals to fund additional residency slots to increase the number of new practicing clinicians. MHA also thanks Congress for enacting the Dr. Lorna Breen Health Care Provider Protection Act that aims to prevent suicide, burnout and behavioral health disorders among health care professionals. While both of these newly enacted laws will help with physician shortages, MHA urges Congress to enact legislation that would further increase the number of Medicare-funded residency slots, such as S. 834/H.R. 2256. MHA also urges Congress to enact legislation that would promote the training of clinicians who will work in behavioral health services.

Hospitals in Missouri are experiencing a nurse shortage crisis. Based on the 2021 Missouri workforce survey, Missouri hospitals employ 36,479 full-time equivalent nurses and nurse assistants. The vacancy rate for these positions amounts to 14.5%, or 5,295 FTEs. More alarming is that the FTE turnover rate for the same period was 34.5%, or 12,580 FTEs. MHA urges Congress to enact legislation that will increase the number of new nurses that would help fill the large number of vacant positions and help reduce turnover. MHA is supportive of grant opportunities that are flexible and helpful to procure nursing educators, such as the Future Advancement of Academic Nursing Act (S. 246/H.R. 851). MHA also supports bills that would expedite the visa authorization process for qualified international nurses, such as the Healthcare Workforce Resilience Act (S. 1024/H.R. 2255).

The use of traveling nurse agencies significantly increased throughout the pandemic, together with significant price increases to secure agency contracts. MHA is concerned that nurse staffing agencies are taking advantage of the pandemic to increase profits. MHA thanks representatives Cleaver, Graves, Long, Luetkemeyer and Wagner for signing onto a dear colleague letter that encouraged the Biden administration to enlist federal agencies to investigate anticompetitive activities. MHA urges Congress to continue assessing whether nurse staffing agencies are practicing anticompetitive behavior.



Strengthen the Health Care Workforce

- Vacancy rate for full-time equivalent nurses and nurse assistance is 14.5% or 5,295 FTEs
- Turnover rate for full-time equivalent nurses and nurse assistance is 34.5% or 12,580 FTEs
- Future Advancement of Academic Nursing (FAAN) Act (S. 246 / H.R. 851) would help to procure nursing educators by awarding grants to nursing schools
- Healthcare Workforce Resilience Act (S. 1024 / H.R. 2255) would expedite the Visa authorization process for qualified international nurses

STRENGTHENING THE HEALTH CARE WORKFORCE

A hospital's ability to care for its patients largely hinges on the quality of the staff, especially those on the front lines of care. The ongoing COVID-19 pandemic has stretched the capacity of Missouri's health care system and proven that the key component to a successful response is a sufficient supply of health care practitioners resilient enough to meet care demands without succumbing to exhaustion. The predominant challenge for hospitals throughout the pandemic has been maintaining its health care workforce.

The pandemic exacerbated workforce challenges that predated COVID-19. These challenges include a lack of practitioners entering the field of health care, staff mental health and burnout, inflationary effects on wages, seasoned practitioners who are retiring, increased numbers of staff employed by temporary agencies, and a shift from patient care into administrative functions to meet government and insurer demands. MHA urges Congress to consider a national initiative to strengthen the infrastructure to train and sustain the health care workforce of Missouri and the nation.

MHA wants to thank Congress for enacting the Consolidated Appropriations Act of 2021 that will increase the number of Medicare-funded residency slots by 1,000 over a five-year period. This will enable hospitals to fund additional residency slots to increase the number of new practicing clinicians. MHA also thanks Congress for enacting the Dr. Lorna Breen Health Care Provider Protection Act that aims to prevent suicide, burnout and behavioral health disorders among health care professionals. While both of these newly enacted laws will help with physician shortages, MHA urges Congress to enact legislation that would further increase the number of Medicare-funded residency slots, such as S. 834/H.R. 2256. MHA also urges Congress to enact legislation that would promote the training of clinicians who will work in behavioral health services.

Hospitals in Missouri are experiencing a nurse shortage crisis. Based on the 2021 Missouri workforce survey, Missouri hospitals employ 36,479 full-time equivalent nurses and nurse assistants. The vacancy rate for these positions amounts to 14,5%, or 5,295 FTEs. More alarming is that the FTE turnover rate for the same period was 34,5%, or 12,580 FTEs. MHA urges Congress to enact legislation that will increase the number of new nurses that would help fill the large number of vacant positions and help reduce turnover. MHA is supportive of grant opportunities that are flexible and helpful to procure nursing educators, such as the Future Advancement of Academic Nursing Act (S. 246/H.R. 851). MHA also supports bills that would expedite the visa authorization process for qualified international nurses, such as the Healthcare Workforce Resilience Act (S. 1024/H.R. 2255).

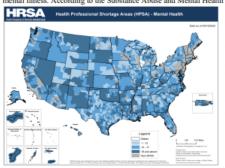
The use of traveling nurse agencies significantly increased throughout the pandemic, together with significant price increases to secure agency contracts. MHA is concerned that nurse staffing agencies are taking advantage of the pandemic to increase profits. MHA thanks representatives Cleaver, Graves, Long, Luetkemeyer and Wagner for signing onto a dear colleague letter that encouraged the Biden administration to enlist federal agencies to investigate anticompetitive activities. MHA urges Congress to continue assessing whether nurse staffing agencies are practicing anticompetitive behavior.



Mental Health

ADDRESSING THE MENTAL HEALTH CRISIS

Mental health disorders are widespread and often are chronic conditions that individuals cope with on a daily basis. Nearly one in five adults, or approximately 52.9 million people, live with a mental illness. According to the Substance Abuse and Mental Health Services Administration,



approximately 46%, or 24.3 million of those individuals, received mental health services in the past year. A major impediment to serving more individuals with mental health illnesses is access to both inpatient and outpatient services. More than one-third of Americans live in designated Mental Health Professional Shortage Areas. Most areas in Missouri are considered a mental health HPSA.

Lacking access to behavioral health providers, patients in crisis commonly present in the emergency departments of general acute care hospitals. Hospitals then are forced to "board" patients, creating challenges for treatment and stabilization, post-discharge placement, and patient transportation. Congress recognized this crisis and proposed hundreds of mental health bills during the 117th session. While the focus on adult mental health in Congress is laudable, MHA urges Congress to develop comprehensive mental health legislation that would provide incentives for institutional and professional providers to invest in mental health services, permanently allow patients to receive care through telemedicine and allow telemedicine technology to be utilized for inpatient services.

One of the most effective long-term solutions is to identify and address mental health issues in five children and adolescents. According to the Centers for Disease Control and Prevention, one in five children and adolescents experience a mental health condition, and SAMHSA reports that half of these conditions begin by age 14. Further, the CDC reports that suicide is the second leading cause of death in ages 10 to 24. To address the mental health crisis among adolescents, Congress introduced the Strengthen Kids' Mental Health Now Act (H.R. 7236). The proposal would increase Medicaid reimbursement for pediatric mental health services, authorize \$500 million each year for five years to enhance the delivery of community-based mental health services for adolescents, authorize \$100 million each year for five years for grants to support training of existing pediatric health care workforce, and authorize \$2 billion each year for five years to develop and strengthen critical pediatric mental health infrastructure. MHA urges the Missouri congressional delegation to support H.R. 7236.



- Nearly one in five adults or approximately 52.9 million people live with a mental illness
- Boarding issues
- Requesting comprehensive legislation that provides incentives
- Requesting continued use of telemedicine
- Urging Congress to enact the Strengthen Kids' Mental Health Now Act of 2022 (H.R. 7236)

Provider Relief Funds and Telemedicine

- Prior to the public health emergency, 840,000
 Medicare telehealth services delivered
- Once PHE waivers emerged, Medicare telehealth services increased to 52.7m in 2020
- Advancing Telehealth Beyond COVID-19 (H.R. 4040)
- Home-Based Telemental Health Care Act of 2020 (S. 3937)
- Permanency of Audio-Only Telehealth Act (H.R. 3447)

COVID-19 FUNDING RELIEF AND TELEMEDICINE

Missouri hospitals appreciate the quick and robust action taken by Congress to provide financial assistance in response to the COVID-19 pandemic. Missouri hospitals secured \$77.6 million in forgivable loans through the Paycheck Protection Program and have received more than \$1.2 billion from the Provider Relief Fund. We also appreciate the flexibilities related to the use of telemedicine provided through congressional action and the Centers for Medicare & Medicaid Services.

Hospitals in Missouri have used PRFs to support temporary COVID-19 testing sites, update facility HVAC systems, purchase personal protective equipment, implement staff retention plans, procure traveling nursing agency staff, pay for unreimbursed COVID-19 care, increase COVID-19 testing capacity, operate mass vaccination clinics and much more. Without the PRFs, hospitals could not have served their communities as they have. The most recent intelligence from the Health Resources and Services Administration is that the PRF balance has been depleted with April 5 being the last day for providers to submit uninsured COVID-19 vaccination claims. Without additional funding or flexibilities, hospitals lack money to use for continuing vaccination clinics or other COVID-19 related expenses, even if they possess previously distributed relief payments. MHA urges Congress to appropriate more money to the PRF to address the substantial financial strain caused by the Delta and Omicron variants. Until more funding is available, MHA urges Congress to adjust or extend the deadline for spending previously distributed funds. The Provider Relief Fund Deadline Extension Act (S. 2493/H.R. 4735) would extend the spending deadline to the end of the public health emergency. The change would apply to funds received before June 30, 2020. MHA asks Congress to enact legislation that would extend the deadline and allow providers to continue using funds already received for expenses incurred during the Delta and Omicron

CMS implemented Medicare telemedicine flexibilities that have been very popular among patients. According to the U.S. Department of Health and Human Services, telehealth services for Medicare beneficiaries increased from 840,000 in 2019 to 52.7 million in 2020. The 63x multiplier increase in telehealth services is a clear sign of the popularity of telehealth flexibilities for Medicare beneficiaries and that the health care industry has the capacity to fulfill the demand. MHA thanks Congress for including telemedicine flexibility extensions within the recently enacted Consolidated Appropriations Act of 2022. MHA urges Congress to enact laws that would permanently continue to provide patients with the flexibility of utilizing telemedicine technology. The following are examples of currently proposed legislation.

- Advancing Telehealth Beyond COVID-19 (H.R. 4040) would permanently implement many of
 the telehealth flexibilities that were authorized during the PHE. H.R. 4040 would allow Federally
 Qualified Health Centers and rural health clinics to serve as a distant site, allow beneficiaries to
 receive telehealth at any site regardless of type or location, expand the type of practitioners who
 can provide telehealth services, and allow for audio-only evaluation and management and
 behavioral health services. Similar proposed legislation includes the Telehealth Modernization
 Act (H.R. 1332/8, 368).
- Home-Based Telemental Health Care Act of 2020 (8. 3937) would establish a home-based telemental heath care demonstration program to increase mental health services in rural medically underserved populations.
- Permanency for Audio-Only Telehealth Act (H.R. 3447) would remove geographic restrictions on originating sites and permanently expand coverage to include audio-only services for evaluation and management, and behavioral health services.

April 2022

340B

PROTECT THE 340B DRUG DISCOUNT PROGRAM

The 340B Drug Discount Program authorizes price discounts on the purchase of pharmaceuticals by Congressionally authorized safety net hospital and clinic providers. Enacted in 1992 and last expanded in 2010, the 340B law requires pharmaceutical manufacturers participating in Medicaid to sell outpatient drugs at discounted prices to those providers. More than 60 Missouri hospitals participate. They use the savings to enhance their capacity to deliver care to vulnerable populations and support other essential and otherwise unreimbursed community services.

Hospitals paid under the Acute Inpatient Prospective Payment System generally are eligible to participate in the 340B program when the Medicare disproportionate payment percentage reaches 11.75%. The Medicare DSH percentage is determined based on the proportion of Medicare Supplemental Security Income to total Medicare days and Medicaid inpatient days to total inpatient days. The COVID-19 pandemic upended this percentage for certain hospitals, placing 340B eligibility in jeopardy. Congress recognized this as a problem and enacted legislation that gives hospitals protections from large payer shifts in inpatient service mix. MHA thanks Congress for intervening and asks Congress to reassess extending such protections if another COVID-19 surge occurs.

Several pharmaceutical manufacturers have instigated diverse but well-choreographed efforts to upend long-standing 340B practices by arbitrarily declaring that drug discounts no longer will be provided through contract pharmacies. By unilaterally creating new obstacles to the use of 340B drug discounts, access to needed pharmaceuticals becomes limited. We believe their efforts are illicit and unjustified. The pharmaceutical companies utilize different approaches to accomplish this result, which runs counter to both the letter and spirit of the 340B law. MHA and the Missouri Primary Care Association previously asked the U.S. Department of Health and Human Services to use its regulatory authority to block them. The agency has written strong letters reiterating its opposition to the pharmaceutical manufacturers' attacks, but the agency has limits on its regulatory authority over 340B. If action or pending litigation from the Health Resources and Services Administration fails to do so, Missouri's 340B hospitals urge Congress to step in to protect the integrity and intent of the 340B law. Missouri's hospitals and others oppose the recent efforts of pharmaceutical manufacturers to limit the breadth of the 340B Drug Discount Program.

Several commercial insurers also are working to reduce the payments for drugs purchased under the 340B program. Such tactics do not align with the goal of the 340B program to use the savings to enhance access to care and maintain other beneficial services. These practices divert savings intended to enhance capacity to deliver care to enhance insurer profits. MHA opposes insurers unilaterally applying payment reductions and asks Congress to assess whether such practices are aligned with the purpose of the program.

- Pharmaceutical manufacturers unilaterally prohibiting / restricting drug discounts in 340B contract pharmacies
- Litigation
- Commercial insurers unilateral payment reductions
- Urge Congress to assess whether such practices are aligned with the purpose of the 340B discount program



White Bagging

- Practice of forcing providers to administer a patient-specific drug supplied from an outside specialty pharmacy
- Problematic for both the patient and the hospital
- Urge Congress to enact legislation that provide a national, uniform solution that applies to all insurers

PREVENT WHITE BAGGING POLICIES

White bagging is the practice of forcing providers to administer a patient-specific drug supplied from an outside specialty pharmacy. White bagging policies have negative unintended consequences on both the provider and, most importantly, the patient. A major consequence of the policy is that white bagging can place the patient at risk due to delayed care and overall patient dissatisfaction with services provided. White bagging only should be used in rare circumstances in which the patient's needs dictate such action and should not be the normal practice.

Hospital accreditation entities require systems that ensure drugs and biologicals are managed in a manner that is safe, appropriate and timely. White bagging threatens the underlying goals of the Drug Supply Chain Security Act, which places requirements on manufacturers, repackagers and pharmacists to ensure product identification, product tracing and product verification, as well as to detect and respond to potentially dangerous drugs. White bagging policies circumvent hospitals' normal procurement and chain of custody processes, including controls over sourcing, storage, preparation and handling of drugs. Due to this, insurers are not aligned with either accreditation requirements or the DSCA goals to promote patient safety.

White bagging polices are not beneficial to the patient. For hospitals to administer drugs to patients in a safe manner, hospitals need to check the drug to make sure the concentration, formulation and dose size is accurate to be safe and appropriate for the patient's current health condition. The patient's current condition often is unknown until the day of treatment. A prime example of the potential harm is the effect on cancer patients. Many cancer patients receive lab tests and clinical examinations that can amend or cancel an infusion therapy service. When white bagging is required by an insurer, the drugs may not be conducive to the transfusion therapy treatment due to changes in the patient's condition. White bagging particularly is risky in pediatric patients because the dose often is calculated based on weight. Due to the complexity in matching the drug to the patient's current medical need, white bagging causes delays if the drug needs to be amended by the supplier, or cancellations if the drug is not available from the supplier leading to an increase in drug waste.

MHA is opposed to insurer-mandated white bagging policies. Hospitals, providers and patients must have the choice in obtaining hospital-administered drugs. Insurers should not be permitted to unilaterally require methods of sourcing and distribution that disrupt the patient experience and impair the provider's ability to provide optimal patient care.

Throughout the country, several state general assemblies have enacted legislation to prevent white bagging practices. Even with state protections, white bagging may continue with plans that are not within the jurisdiction of the state, such as ERISA plans. MHA urges Congress to enact white bagging protections on a federal level that would provide a national, uniform solution that applies to all insurers.





Medicare Advantage Prior Authorizations

MEDICARE ADVANTAGE PRIOR AUTHORIZATION REFORM

Medicare beneficiaries have a choice to enroll in a traditional Medicare fee-forservice plan or a Medicare Part C plan. Medicare Part C, or Medicare Advantage, is a program in which the Centers for Medicare & Medicaid Services contracts with nongovernmental insurers to provide coverage for Medicare-eligible beneficiaries. In 2019, CMS paid MA plans approximately \$274 billion to cover 22 million beneficiaries. CMS expects MA plan payments to increase 8.5% in 2022. Nearly 40% of Missouri Medicare beneficiaries are enrolled in an MA plan.



Most MA plans require prior authorization before hospitals discharge patients to post-hospitalization care, such as home health, skilled nursing, inpatient rehabilitation, inpatient psychiatric and long-term care hospitals. Prior authorizations are needed regardless of whether a hospital contracts with the MA insurer. Hospitals have long voiced problems in receiving prior authorizations and lack of transparency from the MA plans. The COVID-19 public health emergency exacerbated these concerns when hospitals were at capacity and needed to transfer patients to accept incoming patients. Although COVID-19 admissions have declined, MA plans continue to disrupt patient flow by either delaying or denying prior authorization. Many denials are overturned on appeal and thus serve only as a delay tactic for insurers.

MHA applauds CMS for a recently closed request for information about these practices in times of a national emergency. Hospitals and hospital associations responded with numerous comments and are hopeful for CMS intervention. Until such time, MHA continues to encourage members of Congress to enact MA prior authorization reforms.

Representative Susan DelBene, (D-Wash.), introduced the Improving Seniors' Timely Access to Care Act of 2021 that addresses part of these concerns. H.R. 3173 would compel insurers to establish an electronic prior authorization system that includes real-time decision-making for items and services that routinely are approved, annually publish prior authorization information including the percentage of requests approved and the average response time, and meet standards relating to the quality and timeliness of prior authorization determinations as established by CMS.

H.R. 3173 received strong bipartisan support. Currently, 104 Democrats and 74 Republicans have signed on as cosponsors. MHA applauds the support of six Missouri house members who have done so — representatives Cleaver, Graves, Hartzler, Long, Smith and Wagner. MHA urges the Missouri congressional delegation to advance the changes of H.R. 3173 in the legislative process.

- 40% of Medicare beneficiaries in Missouri enrolled in a Medicare Advantage Plan in 2020
- Prior Authorizations for inpatient admissions and patient transfers are problematic
- OIG Reports
- Improving Seniors' Timely Access to Care Act of 2021 (H.R. 3173)
- Discussions with the CMS Central Office

Advocacy Documents and Contact

Spring Advocacy Documents:

https://web.mhanet.com/wpcontent/uploads/2022/03/2022_April_Packet_All_Papers_Combine d.pdf

Andrew Wheeler – awheeler@mhanet.com or 573/893-3700 x1336

State Legislative Update



101st General Assembly

Leadership

- Governor Mike Parson
- House
 - Speaker Rob Vescovo
 - ➤ Majority Floor Leader Dean Plocher (102nd GA Speaker-Elect)
- Senate
 - > President Pro Tem Dave Schatz
 - Majority Floor Leader Caleb Rowden



Setting the Stage

Big Issues

- COVID-19 pandemic fallout
 - Hospital visitation
 - > Vaccine mandates
 - Masking in schools
- Redistricting
 - Maps
- Medicaid expansion
 - Supplemental funding
 - Continued funding
 - Eligibility changes

State Budget

- Supplemental
- Medicaid
- Medicaid Expansion
- Poison Control Center
- American Rescue Plan Act of 2021 (ARPA) Funds

Hospital Visitation

- No Patient Left Alone Act / Compassionate Care Visitation Act
 - > Applies to long term care facilities, hospitals, and hospice facilities
 - > A minimum of two visitors at a time
 - > At least 6 visitation hours per day
 - Parents/guardians of a minor child allowed while the child is in the facility
 - > Facilities may control visitation under certain circumstances

Hospital Visitation

- Essential Caregiver Program Act
 - Applies during a state of emergency declared by the Governor or General Assembly related to an infectious disease
 - > Patient may designate two essential caregivers
 - > May limit in-person contact to one essential caregiver at a time
 - Minimum of four hours per day for in-person contact
 - > 24 hour in-person care permitted when necessary and appropriate

COVID-19 Vaccines

- Organ Transplant Vaccination Requirements
 - Cannot require COVID-19 immunization to receive or donate an organ, excluding lung transplants
- Public Employee Vaccine Mandates
 - Prohibits a political subdivision from requiring a public employee to receive a COVID-19 vaccination as a condition of employment
- State Employee Vaccine Mandates
 - Prohibits requiring a state employee to receive a COVID-19 vaccination as a condition of employment

Time Critical Diagnosis

- Establishes the TCD Advisory Committee
- Streamlines designation process and data collection provisions
- Revises educational requirements for emergency department physicians
- Enhances coordination between hospitals, EMS and DHSS through the State Advisory Council and EMS and the TCD Advisory Committee

Workforce

- Staffing Agency Registration
- Fast Track
- Audiology and Speech-Language Pathology Interstate Compact
- Prescribing & dispensing ivermectin or hydroxychloroquine
- Chiropractor and Dentist medical retainer agreements

Opioid Mitigation Medications

- The Director of the Department of Health and Senior Services can issue a statewide standing order for an addiction mitigation medication, defined as naltrexone hydrochloride
- Permits pharmacists to sell and dispense an addiction mitigation medication under a physician protocol or a statewide standing order
- Provides liability protections to pharmacists who prescribe or dispense the medication and the physician who issues the statewide standing order
- Allows any person to possess an addiction mitigation medication.

Questions?