



*CASE STUDY*

# MANAGED CARE ORGANIZATIONS AND EMERGENCY MEDICAL CARE – THE FLORIDA EXPERIENCE

## **Issue**

Managed care organizations (MCOs) and emergency medical care.

## **ACEP Position Developed Jointly With Kaiser Permanente:**

Health plans should cover medically necessary emergency services without requiring the health plan member to obtain preauthorization. These plans should cover emergency services provided to a health plan member in a hospital emergency department if the member presents with a condition that a prudent layperson, possessing an average knowledge of health and medicine, could reasonably expect to result in serious impairment to the member's health. This is the "prudent layperson" standard. Health plans should not be required to provide ED coverage for members who do not meet the prudent layperson standard.

Emergency physicians should be required to notify the health plan within 30 minutes after

the member is stabilized to obtain authorization for any promptly needed services; the health plan must respond to the request for authorization for any recommended services within 30 minutes. If the emergency physician and the health plan cannot agree on a course of post-stabilization treatment, the health plan should be required to arrange immediately for alternate treatment for the member.

## **Background Information**

As MCOs gained larger numbers of patients in Florida, the impact of some of their policies and procedures on emergency medical care became apparent. Two main mechanisms were at issue. The first was MCOs' attempts to limit patient access to emergency medical care. Some MCOs gave specific instructions to enrollees to call the MCO rather than 911 in an emergency, thereby creating danger to patients in certain circumstances. MCOs also frequently instructed enrollees to call the MCO before seeking care in any ED. This created danger if

treatment was delayed or if patients were referred inappropriately to locations inadequate to manage their problems.

The second mechanism involved reimbursement for emergency services. In some instances, even though appropriate authorization was obtained, MCOs denied reimbursement retrospectively once they determined that the final diagnosis did not meet their definition of an emergency.

## **Legislative History in Florida**

In 1988, Florida passed a state law very similar to the federal COBRA (EMTALA) legislation. Like COBRA, it mandated that all patients presenting to an ED receive medical screening and stabilization. However, neither payment for these services nor any processes dealing with follow-up care outside of the ED were addressed. By 1995, the Florida College of Emergency Physicians (FCEP) had made addressing the MCO issue its highest legislative priority by including desired legislation in several bills. Due to partisan conflicts unrelated to the issues, no significant health care legislation was passed that year. The following year, FCEP repeated its efforts. Constant communication with all parties involved, including the MCO industry, yielded very favorable results. Legislation that addressed both major areas of concern was passed. Access was protected by prohibiting prior authorization and by establishing a definition of emergency medical condition and emergency care and services to which MCOs must adhere. Reimbursement was mandated for the requisite screening examination and for emergency services and care.

## **Arguments in Favor of This Position**

All members of society should have unimpeded access to emergency medical care when they reasonably believe a medical emergency exists. Access includes use of the 911 system, evaluation and treatment in an ED, and trauma care. This should not be less for patients who happen to have their health insurance

through an MCO. Emergency providers should be reimbursed fairly for services they have provided to patients seeking emergency medical care.

## **Arguments Against This Position**

MCOs would be unable to control their costs if all members were allowed to seek care at EDs whenever they wished. Patients should not use EDs for anything other than “real” emergencies. The cost of care in EDs is exorbitant.

## **Potential Proponent Organizations**

Hospital organizations strongly supported the legislation. The Florida Hospital Association, the Association of Voluntary Hospitals, and the Florida League of Hospitals strongly aligned with FCEP’s position. The Florida Medical Association also was strongly supportive. The Emergency Nurses Association was extremely supportive, and members testified at several hearings along with FCEP members. Various emergency medical services organizations and trauma centers were strongly in support.

## **Potential Opponent Organizations**

MCOs were the obvious primary opponents. Some legislators who were strongly committed to cost containment in health care and feared a negative impact were potential opponents.

## **Strategies**

Several strategies were key to the passage of legislation. FCEP made a concerted effort to build coalitions and gain broad support. FCEP members actively lobbied their representatives and appeared before committees whenever needed. Their obvious allies were hospitals and medical organizations. In addition, such groups as emergency nurses and EMS organizations, while traditionally not as politically active or as economically powerful but nevertheless strongly motivated, supported the legislation. Individuals from these groups, along with emergency physicians, related strong personal experiences while lobbying and testifying to help overcome a

well-organized and well-financed opposition. Another element vital to success was the use of a full-time lobbyist who was skilled and experienced. This individual constantly coordinated communications among the various parties and addressed issues of importance to the chapter.

Another key element in FCEP's success was its long-term commitment. The legislative process is such that legislation often does not pass on the first try. FCEP was fortunate to have succeeded on the second attempt, but frequently

legislation takes longer and groups must be prepared to persevere. Even after passage, the parties involved must continue to ensure that provisions of the bill are reflected appropriately in state statute and that communication with coalition friends and the MCO industry is maintained. Finally, one of the major keys to success was the constant message that FCEP's efforts were not merely for self-interest but were to safeguard the public and the interests of patients.

For more information on this issue,  
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