Medicaid Managed Care Organization (MCO) Issues

Kentucky hospitals continue to struggle with ongoing issues created by Medicaid managed care organizations (MCOs). These include:

- Hospitals do not have access to an independent appeal process to challenge inappropriate MCO denials of coverage and payment;
- Some MCOs will not recognize a valid patient assignment of benefits allowing providers to represent patients in the appeals process, including a state fair hearing;
- Some MCOs fail to use nationally recognized criteria for determining medical necessity of hospitalization or treatment;
- Two MCOs continue to use proprietary criteria to pay hospitals $50, less a copayment, for care they determine is non-emergency in an emergency room. This is in violation of a CMS-approved Medicaid State Plan Amendment, which requires hospital personnel treating the patient to determine if an emergency or non-emergency condition exists;
- Long delays in obtaining credentialing for new providers, as each MCO follows a different process and some will not make payments until the conclusion of the process, which results in physicians unable to treat patients or providing treatment which is unreimbursed.

These issues, and the general lack of standardization among the MCOs with respect to criteria, formularies, prior authorization lists and procedures, appeals processes and the like, are greatly increasing the administrative costs of hospitals and other providers. KHA will seek legislation to address these issues.

Retention of CON

Kentucky is one of 37 states, including the District of Columbia, with a certificate of need (CON) program. Because Kentucky oversees the proliferation of health care services through statewide health planning and CON, Kentucky hospitals have one of the lowest costs per day and costs per stay in the nation.

Each legislative session finds individuals or organizations, which compete with hospitals, seeking to repeal CON or seeking special exemptions to establish facilities outside of the CON and licensure process. These providers do not have to meet the same licensure standards and staffing requirements, nor do they pay a provider tax to support the Medicaid program like hospitals do.

KHA supports retaining the current CON program and requiring all providers to follow the same rules in order to assure a level playing field and to protect the public. KHA will oppose legislation containing CON exemptions for certain facilities or providers, as well as legislation proposing CON repeal, and will seek to require such providers to treat indigent and Medicaid patients, participate in the provider tax, comply with comparable quality and safety standards and prohibit the self-referral of patients to facilities with which the provider has an ownership interest, in order to prevent unnecessary utilization.

Oppose Increases in the Hospital Provider Tax

Kentucky hospitals pay $183 million in provider taxes annually which is federally matched and used to support the Medicaid program. Under the regular match rate of 71/29, the hospital tax generates approximately $631 million annually for the Medicaid program.

Hospitals generate about 65 percent of total state provider tax proceeds, as only a few other provider groups are taxed. However, only about one-fourth of the hospital tax collections are specifically used to directly benefit hospitals through enhanced Medicaid payments or for the Medicaid disproportionate share hospital (DSH) program. The overwhelming majority of provider taxes paid by hospitals are used to fund the general Medicaid program, including payments to other Medicaid providers, the majority of which pay no tax.

KHA and Kentucky hospitals oppose any action to increase the amount of provider taxes hospitals are currently paying. Such an action would be financially damaging and unfair, as hospitals are already generating more than $600 million for the program when most other Kentucky Medicaid providers do not pay any tax, and hospitals have been the provider group hardest hit by MCO payment denials. If additional revenues are deemed needed, then other providers, particularly those that compete with hospitals, should be required to pay a provider tax to support the program.
Protect the Medicaid DSH Program

Kentucky hospitals pay $183 million annually in provider taxes which generates more than $600 million each year to support the Medicaid program. A small portion of this tax is used as the state match to access federal Medicaid disproportionate share funds which are allocated to Kentucky’s hospitals. Historically, the Medicaid DSH funds have covered only 35 percent of the actual cost of providing indigent care just to uninsured persons with income below the poverty level. Under federal law, DSH funding is also available to be used to help offset losses incurred by hospitals from inadequate Medicaid payments. The Kentucky Medicaid program payments to hospitals for inpatient and outpatient care cover on average, only 80 percent of actual costs to treat Medicaid patients. This leaves a shortfall of about $300 million each year. While the expansion of the Medicaid program to persons with income up to 139 percent of poverty has reduced indigent care, Kentucky hospitals continue to have a significant amount of uncompensated care. The Medicaid shortfall will rise with the Medicaid expansion and is expected to total $400 million each year. Additionally, bad debts are skyrocketing as more insured people are unable to pay deductibles and other cost sharing. Federal Medicaid DSH allocations are slated to be cut in half under the Affordable Care Act and these reductions will begin in 2017. Kentucky hospitals need access to these federal DSH funds, which are matched by the provider tax hospitals pay, to help offset ongoing uncompensated care. KHA will oppose any action to reduce hospital DSH funding.

Medical Review Panels

KHA continues to support the need for medical liability reform in Kentucky. Medical liability insurance premium costs are lower for both hospitals and physicians in surrounding states that have enacted liability reforms. The 2012 State Liability Systems Ranking Study, conducted for the U.S. Chamber Institute for Legal Reform, ranked Kentucky 38th worst among all states on elements related to the litigation environment, such as damages and jury fairness. Frivolous lawsuits are a major factor driving increased medical liability premiums, as well as the practice of defensive medicine. About 20 states use medical review panels to sift out meritless cases and encourage early settlement of valid cases without going to court. This benefits injured patients by getting claims settled faster, and a higher percentage of the system cost goes to the injured patient rather than the legal system. Review panels have also been shown to lower health care costs by reducing the number of frivolous cases that medical providers must defend. A 2008 study conducted for the American Medical Association found that states with screening panels generally had better overall medical liability insurance rates – 20 percent below the national average – and lower claims costs than states without such laws.

KHA supports the enactment of legislation establishing medical screening panels for the review of all medical liability claims in Kentucky.

Statewide Smoke-Free Law

The health problems caused by tobacco use and secondhand smoke exposure come with a huge price tag. Health care costs directly attributed to tobacco use total $1.5 billion a year in Kentucky. Add that to the $2.3 billion in lost productivity due to early deaths from smoking, and the cost is a staggering $3.8 billion every year. Eliminating secondhand smoke in the workplace would save health care costs, cleaning and maintenance costs, and improve worker productivity. Additionally, numerous studies show that smoke-free laws have a positive or neutral impact to businesses. KHA supports a smoke-free law in Kentucky.

Legislation to Fight Heroin and other Illegal Drug Abuse and Increase Treatment Options

KHA supports legislation that would fight heroin and opioid abuse, and improve access to substance abuse addiction treatment, education and coverage for those with substance abuse problems in Kentucky. Similar legislation failed to pass in the 2014 General Assembly to accomplish this. The proposed legislation would have also toughened criminal penalties for drug traffickers. With heroin overdose deaths up 19.6 percent since 2012, and an increasing rate of infants born in hospitals with neonatal abstinence syndrome (NAS), there has been a push in Kentucky to find workable solutions for more treatment options and more effective drug control efforts. KHA supports legislation and efforts to prevent access to illegal drugs and improve access to addiction treatment options.