



Washington Chapter of the American College of Emergency Physicians v. Washington HCA

(Thurston Cnty., Wash., Super. Ct.)

Topics Covered: Medicaid, Regulatory Burdens and Payment Issues (for Physicians)

Outcome: Very Favorable

Issue

The issue in this case is whether regulations imposed on emergency physicians who seek payment for treating Medicaid patients are valid.

AMA Interest

The AMA believes that Medicaid funding should be sufficient to enable the program to serve its purpose as a safety net for the nation's most vulnerable populations.

Case Summary

As part of its 2011-2013 budget, the Washington legislature directed the Washington State Health Care Authority (HCA) to impose a three-visit-per-year limit on non-emergent emergency department visits by Medicaid patients. The legislature also directed HCA to "collaborate closely with the Washington state hospital and medical associations in identification of the diagnostic codes ... that will be used to determine whether an emergency room visit is a nonemergency condition."

HCA asserted that, as a result of meetings with hospital and physician groups, it developed a list of services for non-emergency conditions. The physicians and hospitals, however, denied that the meetings were conducted in good faith and contended that HCA unilaterally and somewhat arbitrarily (and erroneously) decided which codes could be deemed to indicate the absence of an emergency. HCA then posted approximately 700 ICD-9 codes on its website for procedures which it considered to be of a non-emergency nature.

HCA notified all Washington Medicaid recipients that HCA would only pay for three non-emergency visits to the emergency room per recipient per year. HCA then adopted an emergency regulation, which, with certain exceptions, limited Medicaid coverage to "a maximum of three emergency room visits that do not meet the definition of emergency services per client, per state fiscal year." The revised regulation also provided that HCA "will retroactively recoup payments from all of the billing providers, [including] ... professional ... fees."

The Washington Chapter of the American College of Emergency Physicians sued HCA, and the Washington State Medical Association (WSMA) later intervened as an additional plaintiff. The suit claimed that HCA's adoption of the non-emergency ICD-9 codes was improper because (1) HCA did not meet the requirements for adopting an emergency regulation, (2) HCA did not collaborate sufficiently with the state hospital and medical associations before publishing the list on non-reimbursable ICD-9 codes, (3) HCA violated various state and federal laws governing Medicaid programs, (4) the HCA policy violated the Supremacy Clause of the United States Constitution, and (5) "the list of ineligible diagnostic ... include[d] numerous diagnoses that represent true emergencies."

On November 11, 2011, the court found that HCA had violated the required rule making procedures in adopting its emergency regulation. It therefore held the regulation invalid.

Subsequently, the parties negotiated a settlement.

Litigation Center Involvement

The Litigation Center contributed to the WSMA legal expenses.