



STATEMENT
of the
American Medical Association

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Health
“Examining Health Sector Cybersecurity in the Wake of the
Change Healthcare Attack”

April 16, 2024
Division of Legislative Counsel
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Statement for the Record
of the
American Medical Association
to the
Committee on Energy & Commerce
Subcommittee on Health

Re: Examining Health Sector Cybersecurity in the Wake of the Change Healthcare Attack

April 16, 2024

The American Medical Association (AMA) appreciates the opportunity to submit the following Statement for the Record to the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Health, as part of the hearing entitled, “Examining Health Sector Cybersecurity in the Wake of the Change Healthcare Attack.” The AMA commends the Subcommittee for focusing attention on and exploring solutions to the massive cyberattack on Change Healthcare and the resulting outage that is impacting patients, physicians, hospitals, pharmacies, labs, and countless additional health care professionals, providers, and entities across the country. The AMA has been particularly concerned about the impact of the outage on small and independent physician practices that live financially on the margins and do not have the resources to weather a storm such as this. As such, much of this statement focuses on issues and actions needed to protect the sustainability and solvency of those critical but vulnerable practices.

Although the hackers are ultimately to blame for this breach, the AMA has been disappointed by the response of many of the most resourced players in the health care system to meet the moment thus far, especially in their failure to support physician practices serving small, rural, or underserved communities. We hope that Congressional interest in the actions, or inactions as it may be, of these players will serve to ignite a sense of corporate citizenship in time to help the many physicians in crisis.

I. Impact of Change Healthcare outage on physician practices

Although Change Healthcare was not a well-known entity until recently, it is a health care giant. Even *before* UnitedHealth Group’s (UHG’s) subsidiary Optum purchased Change Healthcare in 2022, the company facilitated over 15 billion health care transactions and approximately \$1.5 trillion in adjudicated claims—more than one-third of all U.S. health care expenditures annually.¹

For many physicians, hospitals, and health insurance companies, Change Healthcare serves as a clearinghouse through which eligibility inquiries are received and responded to, claims are submitted and processed, and remittance is sent back to the physician or health care provider. For

¹ Change Healthcare Annual Report (Form 10-K) for year ended Dec. 31, 2020, available at https://ir.changehealthcare.com/node/7326/html#tx904010_8.

some payers, Change Healthcare even handles the claims payment. Change Healthcare’s importance as the “middleman” transmitting health care claims from physicians and hospitals to insurance companies in the United States cannot be overestimated. But that does not even come close to covering the extent of Change Healthcare’s reach in the health care system. Change Healthcare also plays a role in communicating prescriptions to pharmacies and determining pharmacy, insurance, and patient costs. It facilitates exchanges between physicians, hospitals, and labs—including the ordering of labs and the sending of results. Change Healthcare supports the exchange of information related to prior authorizations (PAs) and other utilization management requirements. And it has products and services that reach into practice management systems and electronic medical record (EMR) systems for dozens of other practice management, clinical, and revenue cycle purposes. And so, when Change Healthcare turned off its systems on February 21 upon news of the cyberattack, the US health care system more or less came to a screeching halt.

Nearly two months later, for most physicians, functionalities dependent upon Change Healthcare systems are still not up and running, at least not completely, and practices continue to try and function without all the Change Healthcare services on which they depended.

Last week, the AMA released informal [survey findings](#)² showing the ongoing, devastating impact of the Change Healthcare outage on physician practices. The survey was conducted from March 26 through April 3 and involved a convenience sample of more than 1,400 respondents.

Claims and process disruptions

Despite assurances from UHG that a large percentage of claims are being submitted and processed, the recent AMA survey data found that practices continue to face disruptions in their ability to submit claims and receive payment on those claims. Thirty-six percent of those who responded reported suspended claim payments, 32 percent are still unable to submit claims, and 22 percent are unable to verify eligibility for benefits.

Additionally, the AMA has heard from physician practices who are unable to obtain electronic remittance advice from health plans, even when they receive payment. In fact, 39 percent of the AMA survey respondents are having trouble obtaining electronic remittance advice. As a result, practices have no ability to reconcile payments with claims and are not able to collect patient cost-sharing (51 percent of survey respondents have lost revenue due to the inability to collect patient co-pays and cost-sharing).

The AMA also received significant feedback related to disruptions in electronic lab ordering. For example, a four-physician maternal-fetal medicine practice serving 45 percent of high-risk pregnancies in New Mexico has been unable to electronically communicate lab orders and results for nearly two months because its electronic clinical system is connected to Change Healthcare. Predictably, the AMA survey shows that practices of 10 or fewer physicians appear to be particularly hard hit.

² <https://www.ama-assn.org/system/files/change-healthcare-survey-results.pdf>.

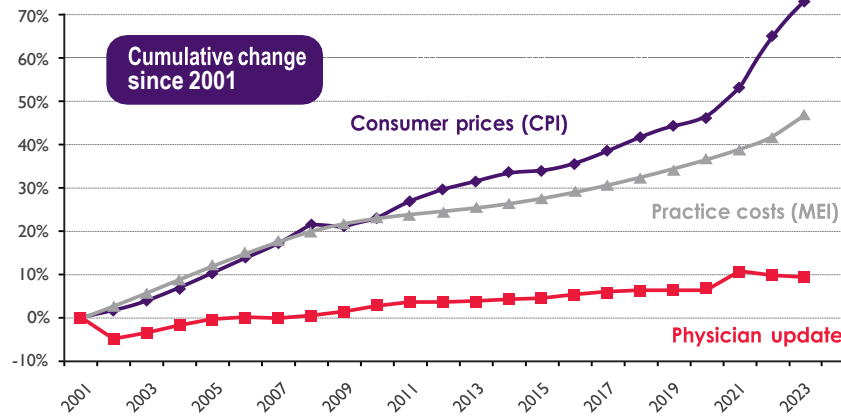
Employment of workarounds and new clearinghouses

Practices are working tirelessly to establish workarounds for the Change Healthcare outage. For example, 31 percent of physicians who responded to our recent survey are using manual and electronic workarounds to simply get paid on claims and to be able to submit claims to payers. As part of these efforts, physician practices are being forced to enter into new and potentially costly arrangements with alternative clearinghouses. Nearly 48 percent of physicians who responded have engaged alternative clearinghouses to conduct electronic transactions, and comments such as “[it is costing] \$10,000 just for the set-up of a ‘back-up’ clearinghouse” were common responses. Unfortunately, we have also received comments that indicate some clearinghouses may be taking advantage of this crisis by increasing costs and extending minimum lengths of contracts, placing further pressure on practice finances.

Physician practice impact

Decreased revenue, along with increased demands on staff, are forcing physician practices to make some difficult financial decisions in response to this system outage. According to the recent AMA survey, 44 percent of respondents were unable to purchase supplies, 31 percent were unable to make payroll, and 85 percent have had to commit additional staff time and resources to complete revenue cycle tasks. For those 80 percent of respondents who have lost revenue from unpaid claims and for claims they still cannot submit, a band-aid solution has been to use personal funds to cover practice expenses (55 percent of respondents) or take out loans to buy supplies, pay their staff, handle overhead costs, and pay their vendors. But the potential long-term impact of this outage is the permanent loss of many small and independent practices that simply will not be able to keep their doors open. The AMA has heard from physicians stating that this crisis “...may bankrupt our practice of 50 years in this rural community...” and “I am now going to get acquired by a hospital system because I just can’t bear the financial responsibility.” The repercussions of this crisis will be felt by communities long after Change Healthcare is back up and running.

The situation with Change Healthcare underscores the fragility of physician practices and the need for Medicare payment reform. According to data from the Medicare Trustees, Medicare physician pay has increased just 9 percent over the last twenty-three years, or 0.4 percent per year on average. Note that the 9 percent includes the temporary 2.93 percent update that expires at the end of this year. In comparison, the cost of running a medical practice increased 54 percent between 2001 and 2024, or 1.9 percent per year. Inflation in the cost of running a medical practice, including increases in physician office rent, employee wages, and professional liability insurance premiums, is measured by the MEI. As a result, Medicare physician pay doesn’t go nearly as far as it used to. As shown in the chart below, when adjusted for inflation in practice costs, Medicare physician pay declined 29 percent from 2001 to 2024, or by 1.5 percent per year on average. Physician practices cannot continue to absorb increasing costs or weather crises such as the Change Healthcare outage while their payment rates dwindle.



Sources: Federal Register, Medicare Trustees' Reports, Bureau of Labor Statistics, Congressional Budget Office.

Concerns for patients

Even against that backdrop of remarkable challenges, only 15 percent of practices who responded to the recent survey have reduced office hours. But physicians are worried about their patients' access to care from being unable to verify and accept patient insurance prior to visits. We stress that the inability to confirm insurance benefits and patient financial responsibility is particularly problematic at this time of year, as many patients have not yet met their out-of-pocket deductible. Physicians also report difficulties in managing prescriptions and completing PAs, processing assistance program discounts, and ordering labs or receiving results. Physician stories such as "...I have one patient that was unable to get her biological for two months as she was unable to afford the cash cost and her disease flared significantly..." are not uncommon.

II. Immediate action needed to support physician practices impacted by outage

Immediate action is needed to assist physicians and their practices in maintaining solvency and keeping their doors open for patients. Assistance should come in the form of advance payments, administrative relief, and a targeted focus on restoring practices' electronic systems.

Financial assistance/advance payments

The AMA has been advocating for immediate and targeted financial relief for physician practices from all payers in the form of advance payments based on claims history. For many physician practices devastated by the Change Healthcare outage, such payments can serve as a lifeline.

The AMA is grateful to the Centers for Medicare & Medicaid Services (CMS) for quickly standing up the Change Healthcare/Optum Payment Disruption (CHOPD) Accelerated Payments to Part A Providers and Advance Payments to Part B Suppliers in March. The AMA also welcomed the March 15 Center for Medicaid & CHIP Services (CMCS) Informational Bulletin (CIB) providing enforcement discretion to allow Medicaid programs to elect a State Plan Amendment (SPA) option for implementation of interim payments to Medicaid fee-for-service providers. It is important to note the particular vulnerability of many physicians who care for Medicaid patients and may not have access to other forms of advance payment while serving

marginalized communities. The AMA continues to urge state Medicaid directors to take advantage of this SPA option, especially given that less than one percent of respondents to the AMA's recent survey answered that they have received advance payments from state Medicaid plans.

Additionally, UHG should be recognized for the significant resources it has put behind its advance payment program. While initially many physicians who applied saw inconsequential amounts being offered and walked away from the program, it is our understanding that UHG's loan program now provides funding not just based on estimates of unpaid UHG claims since the outage, but all insurer claims, to assist struggling practices and hospitals. The AMA is aware of many practices that have been able to keep their doors open to patients because of this assistance.

Disappointingly, we have seen very few other health insurers establish any advance payment or loan programs to help their contracted physicians. According to the recent AMA survey data, only 4.5 percent of respondents have received assistance from commercial health plans other than UHG. To the AMA, that is appalling. During the suspension of claim submission and payment, health plans have retained premium dollars and, in fact, collected interest on those patient, employer, and government payments for up to two months. For companies that make billions of dollars in profit each year and purport to be partners with physicians in patient care to feel no sense of obligation to support our health care system when it is in crisis is unconscionable and a crisis in and of itself. **The AMA asks Congress to urge these commercial payers to provide advance payments to physician practices impacted by the Change Healthcare service outage**, and especially to small, independent practices.

Suspend all PA, quality reporting, and similar administrative requirements

The Change Healthcare outage has impacted the ability of practices to exchange information needed for payer's administrative requirements such as PA and quality reporting. For example, the outage has obstructed both the electronic exchange of PA information between physicians and many health plans and pharmacy benefit managers (PBMs), as well as access to the clinical guidelines used by many payers, making completion of these requirements difficult, if not impossible. Moreover, the outage's impact on pharmacies', labs', and imaging centers' communications has significantly complicated utilization management processes.

Additionally, the Change Healthcare outage has required an "all-hands-on-deck" approach to keep physician practices running and patients being seen. We already know that physicians and their staff spend an average of two working days each week on PAs alone,³ even as these processes threaten patients' access to care.⁴ Always, but especially now, physician and staff time could be much better spent on addressing outage issues and reducing the toll that service disruptions are having on the provision of care, rather than dealing with PA hassles.

For these reasons, we ask that **Congress ensure that all health plans temporarily suspend their utilization management programs and other unnecessary administrative requirements on physician practices.**

Importantly, CMS has extended the 2023 Merit-based Incentive Payment System (MIPS) data submission deadline and is now reopening the 2023 (MIPS) Extreme and Uncontrollable

³ <https://www.ama-assn.org/system/files/prior-authorization-survey.pdf>.

⁴ <https://www.nytimes.com/2024/03/14/opinion/health-insurance-prior-authorization.html>.

Circumstances (EUC) Exception Application to provide relief to clinicians impacted by this cybersecurity incident. The AMA recognizes the relief this will provide to practices and urges other payers to follow with similar administrative relief in their quality reporting programs.

Focus on restoring function for independent physician practices

Certainly, the best solution for many physician practices is to have their Change Healthcare products restored and functioning again. Media reports suggest that for many large systems and hospitals, functionality is returning. However, given member feedback, the AMA fears that small physician practices outside of large systems are not a priority for service restoration. While understanding the reasoning behind prioritizing reconnection of systems that move large claim volumes, the AMA stresses that it is the smaller practices that may not have received advance payments or have the ability to take out loans or dip into personal savings that are now teetering on insolvency. In fact, survey respondents have reported tens of thousands of dollars in unexpected costs to reestablish a portion of their business operations, and even some reporting more than \$100,000. As such, **the AMA asks health plans and policymakers to help ensure that small and independent physician practices are not the last in line when it comes to restoring functionality.**

III. Protections needed for physician practices after outage is resolved

In addition to the immediate relief needed for physician practices, it is imperative that policymakers and health plans establish flexibilities for practices in the months and even years to come following this crisis. Without plans in place to alleviate the burdens and chaos that are bound to ensue as Change Healthcare comes back online and processes resume, the stability of physician practices will remain threatened. Below are examples of a few actions that will help physician practices. The AMA recognizes many more solutions are needed in addition to these as physicians struggle to recover from the financial and administrative turmoil resulting from this cyberattack.

Prohibit retroactive denials based on eligibility or lack of utilization management approval

In addition to the previously mentioned utilization management challenges the Change Healthcare outage has brought, it has also prevented electronic insurance eligibility verification. Standard operating procedures for most physician practices include submitting batch electronic eligibility requests every evening to confirm insurance coverage, benefits, and co-pay amounts for patients with appointments scheduled for the next business day. Without this capability, physicians continue to care for their patients, but they could later be liable if a patient's coverage has lapsed. As such, **the AMA is urging policymakers to ensure that all health plans waive any claim denials based on lack of patient insurance eligibility or utilization management approval for practices impacted by the outage.**

Waive timely filing deadlines for claims and appeals

Many health plans enforce deadlines for timely filing of claims based on the date of service. However, given the extensive challenges with claim submission resulting from the Change Healthcare outage, many physician practices are not currently able to meet those deadlines and will continue to have delays in claim submission. Enforcement of these timelines could result in

nonpayment to practices, further exacerbating the financial impact of this crisis. We note that some practices are already reporting denials due to late claim submission resulting from the service disruption. **Therefore, the AMA is urging policymakers to ensure that all health plans are required to waive timely claim filing requirements. Similarly, any time limitations on the filing of appeals should be waived as well.**

Loan repayments

Many physician practices have accepted advance payments and loans through UHG, Medicare, and Medicaid that are helping maintain their financial viability. However, there is growing concern about the repayment expectations and the impact that premature or aggressive recoupment would have on practices.

The AMA is advocating for flexibility and leniencies in repayment requirements to ensure that the rug is not pulled out from under financially vulnerable practices just as they are beginning to reestablish their footing. It will be important for the sponsors of advance payments to ensure that claim submission and payment processes are functioning for all a practice's payers, rather than just the sponsor's plan, before requiring repayment. Additionally, it will be critical that sponsors clearly communicate with practices about how recoupments will be processed and specifically identify amounts withheld for loan repayments on remittance advice to differentiate them from other payer recoupment processes.

Communication on scope of the breach

Physician practices are frequently the first and primary contact for patients to the health care system. Therefore, it is imperative that the scope of the breach and the impact on patients' data are fully communicated to physician practices. The urgency of this issue has been heightened in recent days by credible reports that a second cybercriminal organization possesses the data from the Change Healthcare breach and is threatening to publish this information unless UHG meets ransom demands. The AMA therefore urges Congress to demand that UHG disclose the amount and types of patient and health care provider data that have been compromised, the associated harms to privacy, and how UHG will respond and address individuals' identification theft. We expect, at the very least, that UHG should provide guaranteed identification protection for no less than two years for all individuals whose identity has been compromised.

IV. Long-term considerations for the health care system

While immediate and near-term relief and flexibilities for physicians and patients are paramount, the AMA urges Congress to begin considering long-term policy changes and protections needed to both deter future cyberattacks and protect physician practices if—and realistically, when—they happen again.

The AMA anticipates that Congress will investigate the causes of this breach, whether existing cybersecurity laws are strong enough, and whether such laws were being followed. The AMA hopes that Congress will also look at where response requirements can be strengthened and whether it makes sense to incorporate flexibilities for federal and state governments to respond to health care cyberattacks, similar to those flexibilities provided for public health emergencies.

Additionally, we strongly urge Congress to consider why consolidation in the health insurance market is permitted to the extent that a single company can have indisputable dominance over the entire health care system so that that when they are attacked, the entire system goes down.

Finally, the AMA urges Congress to reevaluate the environment that has led so many physician practices to be in the position of financial vulnerability. Ensuring physician practices have resources to weather a crisis like the Change Healthcare outage and continue serving their patients has to start with ensuring physicians' financial security.

Thank you for the opportunity to submit this statement. We look forward to working with the Subcommittee to address the immediate and long-term needs of physician practices in light of the Change Health cyberattack and outage.