IMPACT Magazine Article
Thoughts on Reforming Insurance Regulations

As we dig into 2011 and our legislators are attempting to strip away or modify the Healthcare Act, it would be helpful for providers to begin analyzing their business operations and the affect the insurance regulation has on them. While most providers have spent their lives on patient care and their concern has been on the restoration of their patient's health, insurance companies have been slowly tightening up reimbursement systems and placing barriers in front of their patient's healthcare. I think all of us would agree that patient's needing healthcare should receive it and insurance companies should have a right to make sure those needs are legitimately handled.

In order to fix our insurance problem, we must first understand how things work legislatively. Right now we have four federal insurance programs (that I am aware of) and fifty different sets of state insurance laws. The four federal programs are as follows:

1. Medicare
2. Medicaid-federal funds matched by varying levels of state funds creates many programs and varying interpretations of those programs
3. Champus/Tricare (Military)
4. ERISA (Employers can self fund their health insurance under these federal regs)

After these four programs, each state has their own laws and all insurance companies can operate within those states under their interpretation of those laws. If a dispute arises, the insurance commission of that state steps in to sort things out.

With employer's having plants all over the United States, it can become confusing as to which insurance laws govern a patient's care. For example, if a patient is injured on the job in Massachusetts and moves to Wisconsin where they continue their care, it is natural to assume that Wisconsin laws should govern that patient's care (since that is

where the provider resides). Unfortunately, Massachusetts Workers Compensation laws would be in effect here.

So what should be done to affect a change in our insurance laws? I don't know the answer, but I certainly would offer up the following thoughts. First, why not find a common ground that everyone could use as a platform. Over the past decade, CMS has been reviewing their Carrier, Intermediary and MAC system. A slow consolidation has been happening to eliminate inconsistencies in interpretations of medical necessity, reimbursement and other frustrations that providers experience. Wouldn't we all feel better if we knew what the rules were before we stepped onto the playing field? If we had standard regulations, I believe their would be fewer court cases to determine whether laws were fairly interpreted and there would be fewer barriers between patients, providers and insurers.

Second, I don't know how many providers have had an opportunity to file a complaint to their state insurance commission. The circumstances can be enlightening and frustrating at the same time. My personal experiences have been all over the road. For example, a Kentucky based insurance company sent a Mississippi patient's medical record to our Iowa office. The medical record was returned in one of our window insurance envelopes and that envelop had been opened at the insurance carrier's offices (so it came back via US postal in an open envelope). Naturally, I reported this as a HIPAA violation to the 3 state's insurance commission's office. In one case I received a response back that HIPAA was federal legislation, not state and therefore my complaint should be filed with the Department of Labor. The second state office cited the same thing, but took responsibility for following that complaint up to make sure there was an

appropriate resolution to it. I am assuming that Pony Express hasn't made delivery to the third state insurance commission's office because I have never received a response (I can only assume they were ambushed along the route) to my complaint. I have had several other instances where the insurance company has informed the state insurance commission (where I filed the complaint) that the patient was insured outside their state lines and therefore, the commission had no jurisdiction in the matter. Even though the insurance company promised to assist us in resolving our immediate problem, they didn't resolve the underlying problem (so that the problem wouldn't occur again). A potential solution to the jurisdiction problems would be for the National Association of Insurance Commissioners to convene and establish a complaint clearinghouse. If a complaint were filed within a state's boundary and the insurance company asserted it was outside that state's jurisdiction, the state would broker the complaint to the national complaint clearinghouse and be forwarded on to the correct federal or state insurance commission for follow up and resolution. In other words, it would work similar to how federal reserve banks operate or, our healthcare claims clearinghouse' operates.

In summary, none of this can happen without active voices and participation from healthcare providers. In order to be heard, an individual will need to step up and participate and if necessary, contribute to a professional organization or political party. Without the participation, the efforts to change a poorly functioning system will fail.