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BRADLEY C. STILLMAN

November 4, 2009

Ben McLane
Provider Network Manager
Anthem BlueCross
2155 Oxnard Street
Woodland Hills, CA 91367

Dear Mr. McLane:

I am writing with respect to Anthem BlueCross's September 2, 2009 announcement of its plans to subject select endoscopy and colonoscopy procedures to site-of-service differential reimbursement effective January 1, 2010. For the reasons set forth below, the American College of Gastroenterology believes that this policy is inconsistent with the best interests of patients, as well as being unfair to the physicians and facilities serving your subscribers.

1. INTRODUCTION

The American College of Gastroenterology (College) is a physician organization representing gastroenterologists and other gastrointestinal specialists. Founded in 1932, the College currently numbers more than 11,000 physicians among its membership. While the vast majority of these physicians are gastroenterologists, the College's membership also includes surgeons, pathologists, hepatologists, and other specialists in various aspects of the overall treatment of digestive diseases and conditions. The College has chosen to focus its activities on clinical Gastroenterology – the issues confronting the gastrointestinal specialist in treatment of patients.

The site-of-service differential approach you plan to adopt in January 2010 is not a new one. In fact, it has been adopted in other jurisdictions. Upon subsequent review, however, jurisdictions have reversed these policies. Site-of-service payment differentials create economic incentives for physicians to perform procedures in the office setting and create a false sense of security for your subscribers being treated in the office setting. This same approach was adopted by Medicare beginning in 1997. Despite the financial incentive, it is to the credit of gastrointestinal specialists that the percentage of Medicare GI services performed in the hospital outpatient department (HOPD) or ambulatory service center (ASC) are well over 90%, even though they are being offered a larger fee if they would move to the office setting. It is important to recognize that the reason for this strong preference for the ASC and HOPD setting is that performing these services in a facility provides the best assurances for patient safety. Even within the small subset of 5% or so of Medicare procedures which are recorded in the office or office setting, a substantial number of these are facilities in states which have certificate of need (CON) problems.

Procedures involving sedation such as GI endoscopies need to be performed in the setting that provides the best protections against complications. Your adoption of this site-of-service approach is directly contrary to the best interests of your patients. Your subscribers are not well-served by creating economic incentives which may interfere with the appropriate consideration of the proper setting for each patient.

Other authorities have underscored the shortcomings of the site-of-service approach in GI endoscopy.

The Medicare Payment Advisory Committee (MedPAC) has consistently underscored in its annual reports that the site-of-service policy for GI procedures should be reconsidered. In a recent annual report to Congress, MedPAC wrote “Even though physicians can safely perform many surgical procedures on healthy beneficiaries in the office setting, sicker beneficiaries may require the additional infrastructure and safeguards of an ASC or outpatient department. Physicians should have the discretion to decide which setting is most clinically appropriate for individual patients.” The site-of-service approach has also come under scrutiny from Congress. Your policies place economics before what is clinically sound.

According to California (CA) law, an insurer must be able to demonstrate to the CA Health Department that medical decisions are rendered by qualified medical providers, *unhindered by fiscal and administrative management*.¹ As discussed above, the vast majority of GI procedures are conducted in ASCs and HOPDs in spite of the lower reimbursement. Since CA providers believe these settings are best for both patient and provider, your new policy seems contrary to the spirit of the law.

A few years ago, BlueCross BlueShield of Massachusetts unilaterally reversed its decision to adopt the site-of service policy. The College encourages Anthem BlueCross to do the same.

Conclusion

On behalf of gastrointestinal patients, the College’s more than 11,000 physicians nationwide, and our members in clinical practice in CA we are:

- (1) advising you that adopting the site-of-service policy is detrimental to the best interests of our patients, increases the risks that the choice of setting may be hindered by fiscal and managerial factors rather than of quality of care rationale; and
- (2) asserting that it is an unfair underpayment to those specialists actually qualified to perform GI endoscopic services.

The College believes that knowingly proceeding with this proposed site-of service differential policy creates unnecessary safety risks and quality of care problems for your

¹ California Health & Safety Code § 1367(g)

subscribers and practitioners with whom you contract to treat these subscribers. I urge you to abandon your plans.

Respectfully,

A handwritten signature in black ink, appearing to read "Philip O. Katz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Philip O. Katz, M.D., FACP
President

cc: ACG Member Physicians in CA