



Executive Director Update

MSOS Business Meeting

March 1, 2022

Cathryn Stratton, CAE

2021 AAOS Grant

AAOS Committee on State Legislative and Regulatory Issues Grant award to MSOS for \$5,000
This was a partial grant awarded (requested \$12,000) and the consensus was that work would focus on chapter development and building a stronger orthopaedic surgeon network in Maine.
Funds would be used to help offset cost of

- participating in Coalition (coalition work products to be shared with AAOS)
- advocacy and member engagement work done by the chapter

Local Advocacy Efforts

PARTNERSHIP FOR EXPERT CARE

Goal: To raise awareness about the benefits of physician-led care.

Work Products in 2021:

- Website – www.partnershipforexpertcare.org content describes the coalition and presents some scope and patient care issues. The site also highlights the training and scope of practice for the medical specialties most at risk/impacted.
- Paid Media adds on radio that you may have heard if you listen to
- Short videos that highlight how some scope issues impact patient care.

Proposed for 2022: ongoing fundraising, look for additional partner organizations, social media and paid media, legislative outreach, website, toolkit

LEGISLATIVE ADVOCACY

Here are a few bills we're following:

- **LD 333, An Act Regarding Telehealth** This bill makes changes to the provisions governing health insurance coverage of telehealth services. Public Hearing scheduled for May 6, 2022
- **LD 1196, An Act Regarding Targets for Health Plan Investments in Primary Care and Behavioral Health** Legislative Work Session scheduled for May 4, 2022
- **LD 1423** - An Act To Prevent and Reduce Tobacco Use by Ensuring Adequate Funding for Tobacco Use Prevention and Cessation Programs and by Raising the Tax on Tobacco Products and To Provide Funding To Reduce Disparities in Health Outcomes Based on Certain Factors
- **LD 1550** An Act To End the Sale of Flavored Tobacco Products

If you are interested, Sarah at the MMA is making it easy for you to access information and track the status of legislation and testimony. [MMA Legislative Webpage](#)

National Advocacy Efforts

NO SURPRISES ACT (SIGNED ON TO AAOS LETTERS IN March and December)

March letter requested that requirements related to the No Surprises Act rules -

- a. **Hold patients harmless.** A patient receiving emergency services from an out-of-network practitioner will be liable only for the amount they would have been charged had the practitioner been in-network.
- b. **Create a quick and fair process for settling disputes.** A “baseball-style” IDR process, which can be triggered by any party in the event of a dispute. The median in-network rate must be considered at the same priority level as other factors, as laid out in the legislation, and not treated as the primary factor. The physician and the insurer can negotiate and settle on a mutually agreeable number at any time.
- c. **Require transparency from networks.** Insurance companies would be responsible for keeping accurate records of physicians’ network status and would be held liable if a patient were informed incorrectly that a practitioner was in-network.
- d. **Reduce out-of-network billing rates.** The New York law has succeeded in reducing the practice of out-of-network billing by 34%. The federal solution should model this effort to duplicate its success.

December letter asked DHHS to ensure **both** patients’ access to care and the financial health of their physicians.

- a. ensure that patients are removed from the middle of out-of-network (OoN) payment disputes between insurers and physicians.
- b. providing a fair and comprehensive process for physicians and insurers to settle OoN payment disputes in a way that protects patients.

Resulting Rules were disappointing for many medical/physician advocacy organizations.

Many believed the Interim Final Rule was a deviation from legislative text and Congressional intent and lawsuits were filed on the basis that the rules -

- a. permitted commercial insurers to move away from a good-faith negotiating process.
- b. tipped the scale of disputes in the favor of commercial insurers by making the insurer-formulated Qualifying Payment Amount (QPA) the primary factor for consideration and the presumptive appropriate payment amount.

We are still awaiting a decision on the January 7, 2022 amicus brief filed by the AMA in conjunction with several other medical societies, including the AAOS in the state of Illinois. Last week, a similar case filed by the Texas Medical Association was decided in favor of the plaintiff (TMA).

DHHS Response: As of this morning, the CMS fact sheet reaffirms that the patient protections around the ban on balance billing are still in place. CMS is still "reviewing the court's decision and considering next steps," but in the meantime will take the following actions. Effective immediately, withdraw guidance documents that are based on, or that refer to, the portions of the Rule that the court invalidated. Once these documents have been updated to conform with the court's order, we

will promptly repost the updated documents. Provide training on the revised guidance for certified IDR entities and Disputing Parties. This training will be offered through webinars and roundtable discussions, and will occur after the above-referenced documents are updated. Open the IDR process for submissions through the IDR Portal. For disputes for which the open negotiation period has expired, the Departments will permit submission of a notice of initiation of the IDR process within 15 business days following the opening of the IDR Portal.

PHYSICIAN FEE SCHEDULE (September 2021)

MSSO signed on to a AAAOS letter commenting on the proposed CMS rules on proposed policy changes for Medicare payments under the Physician Fee Schedule, and other Medicare Part B issues.

Key issues were:

- Cuts to the Physician Fee Schedule Conversion Factor due to statutory requirements
- Several key telehealth and other virtual care-related proposals
- Quality Payment Program's MIPS Value Pathways