ACR® AMERICAN COLLEGE OF RADIOLOGY

QUALITY IS OUR IMAGE

acr.org

March 23, 2018

The Honorable William Cassidy, MD
United States Senate
Washington, DC 20150

Dear Senator Cassidy:

On behalf of the 36,000 members of the American College of Radiology (ACR), I want to thank you and your Senate colleagues for providing the opportunity to respond to your February 28, 2018 stakeholder inquiry. Your bipartisan effort to "increase health care price and information transparency to empower patients, improve the quality of health care, and lower health care costs" is greatly appreciated by the ACR.

The College believes that we can best serve your inquiry by sharing what we and many other medical specialties have faced with regard to some of the policies that one insurer, specifically Anthem Blue Cross and Blue Shield (Anthem), implemented over the past year. Our comments seek to reflect the apprehension in your letter where you state, "In health care, the lack of information and the inability to access it hurts patients and prevents normal market forces from driving competition, lowering prices and improving quality." The ACR believes our concerns with Anthem's policies may serve as the "poster child" for what can happen when private payer policy development is non-transparent and non-consultative with its patients and providers.

A brief synopsis of the policies in question is as follows:

> *Outpatient Advanced Imaging Site-of-Service Denial Policy* - With a fluid list of medical exceptions, Anthem is now requiring beneficiaries referred for advanced diagnostic imaging services (CTs, MRIs, Nuclear medicine scans) to obtain a "site–of-service" pre-authorization clearance prior to receiving these procedures in the hospital outpatient department. This is another level of burdensome preauthorization on top of the longstanding "medical necessity" preauthorization requirements for advanced diagnostic imaging services. Anthem is partnering with a for-profit radiology benefit manager (RBM) company, AIM Specialty Health Services, to conduct the prior authorization review. If Anthem's RBM subsidiary deems the hospital based outpatient imaging setting as a non-medically necessary site-of-service, ordering providers will be required to give patients a list of in-network, free standing facilities where they can receive the procedures despite the fact that the hospital is listed as an "in-network" provider in the mutually approved contracts. Site-of-service pre-authorization denials, however, have nothing to do with a patient's clinical situation. Instead, these site-of-service denials occur principally due to costs, rather than substantive quality metrics or patient need.
>
> The hospital outpatient department site-of-service denial policy took effect in the states of Indiana, Kentucky, Missouri, and Wisconsin on July 1, 2017, as well as the states of Colorado, Georgia, Nevada, New York, and Ohio, effective September 1, 2017. Anthem implemented the same policy in the states of Connecticut, Maine, and Virginia, effective March 1, 2018.
>
> This cost-driven policy disrupts ordering physicians' relationships with hospital-based radiology practices, dramatically reduces patients' options as to where to have their imaging studies performed and removes radiology from the continuum of patients' care. By carving out these life-saving services, advanced imaging is immediately reduced to a commodity going to the lowest cost provider, regardless of quality or unique patient needs. Although incentivizing beneficiaries into specific care settings has been an ongoing practice

HEADQUARTERS
1891 Preston White Dr.
Reston, VA 20191-4326
703-648-8900

GOVERNMENT RELATIONS
505 Ninth St. N.W., Suite 910
Washington, DC 20004-2173
202-223-1670

CLINICAL RESEARCH
1818 Market St., Suite 1600
Philadelphia, PA 19103-3609
215-574-3150

by private payers for many years, Anthem's decision to unilaterally eliminate an entire site-of-service outside of any contract negotiation cycle defining "in-network" providers is unprecedented.

Anthem also recently initiated retrospective "pre-payment" reviews of CTs and MRIs administered in the Emergency Department. As of November 15, 2017 Anthem will review all MRIs, CTs of the abdomen, CTs of the pelvis, and combination CTs abdomen and pelvis completed in conjunction with Emergency Department visits in the states of Missouri and Ohio. In Kentucky, the policy is reserved for a retrospective review of all emergent MRIs. If these services are retroactively deemed for non-emergent conditions, possibly decided based on the result of the imaging examination, Anthem will deny payment.

This aggressive program undoubtedly sought to place unseemly dampening pressure on Emergency Department physicians to avoid using CTs and MRIs, despite the fact that these modalities are widely regarded as critical to an expedited determination as to whether a patient is in an emergent situation.

Retroactive Coverage Denials for "Non-Emergent" Services Administered in the Emergency Department - In a move designed to curb unnecessary visits for non-emergent conditions, Anthem is aggressively reviewing *all* services administered in the Emergency Department in select states. If the retrospective reviews of common procedures or services traditionally delivered in the Emergency Department yield clinical diagnoses that Anthem deems to not be a truly emergent situation, the insurer will deny coverage and force the patient, rather than a physician or hospital, to cover the expenses associated with the care. In addition to shifting the responsibility for determining the difference between an emergent or non-emergent situation to the patient before any clinical evaluation, the Anthem Emergency Department coverage denial policy is very likely a violation of federal patient protection laws, specifically the "prudent layperson" standard.

Thanks to a coordinated advocacy campaign led by ACR in concert with the American College of Emergency Physicians and American Hospital Association, Anthem announced in February 2018 the creation of additional "always pay" exceptions to the flawed Emergency Room avoidance policy. Now, anytime a patient visits an Emergency Room and receives a CT or MRI, Anthem will automatically cover the claim.

It is important to note, however, it is unclear whether the retrospective review of CTs and MRIs initiated in the states of Kentucky, Missouri, and Ohio and highlighted above is still in effect, despite the fact that it no longer has any bearing on beneficiary coverage decisions. If the review remains in effect for potential information gathering purposes, it is unclear how Anthem plans to utilize the data collected in these three states as it relates to future policies affecting CTs and MRIs in the Emergency Department.

While acknowledging that the challenges facing all aspects of the American health care system are real and daunting, national medical specialty societies, patient advocacy organizations and hospitals desire to be partners with insurance companies in an effort to improve health care outcomes and control costs. The ACR, along with other patient, medical specialty and hospital organizations, has expressed these sentiments to Anthem through multiple communications (attached) and several face-to-face meetings.

Although Anthem initially responded to the ACR's communications by providing some additional exceptions to both the outpatient imaging policy and the retroactive coverage denials for the Emergency Department, the underlying policies of site-of-service exclusion and retroactive denial still remain. Anthem only elected to alter these policies following a long-term, methodical advocacy campaign led by various medical and hospital associations, including the ACR. As long as these underlying policies remain, they will continue to negatively impact the safety, quality and coordination of patient care.

The Honorable William Cassidy, MD
March 23, 2018

It is our hope that as Congress continues to explore ways to "craft a policy that most positively affects consumers and involves best practices from providers and states," it will look to encourage private payers like Anthem to be more transparent and include its health care partners in its future policy making and implementation. Transparency regarding what services insurers will cover, a clear understanding of the rationale behind any potential coverage denials, and any out-of-pocket expenses borne by the patient is equally as important as delineating physician charges for procedures. ACR is afraid that failure to accomplish the laudable goal of forcing both physicians *and insurers* to be more transparent will result in other private payers seeking to emulate Anthem by enacting similar flawed policies.

We appreciate the opportunity to participate in this effort. Should you have any questions, please do not hesitate to contact Cindy Moran, Executive Vice President, Economics, Government Relations and Health Policy, American College of Radiology, either via phone (202-223-1670) or email (Cmoran@ACR.org).

Sincerely,

William T. Thorwarth, Jr., MD, FACR
Chief Executive Officer
American College of Radiology

Enc. January 11, 2018 Stakeholder Letter to Anthem
February 28, 2018 Letter from the American College of Radiology, American College of Emergency Physicians, and American Hospital Association Letter to Anthem
March 5, 2018 Hospital Stakeholder Letter to Anthem