

TO: MSSNY's Officers, Councilors and Trustees

FROM: MSSNY Legislative & Physician Advocacy Committee

DATE: December 14, 2022

RE: Resolution 260 – 2022 House of Delegates
Nassau County Medical Society

The following resolution was referred to the Council by the House of Delegates. The resolution was forwarded to the MSSNY Council for further study and recommendation for the Council's consideration.

RESOLVED, that MSSNY will advocate for a state law or regulation that requires insurers to pay all the CPT codes of a given procedure or operation at the same time; and be it further

RESOLVED, that MSSNY ask the AMA to advocate for federal law or regulation that requires insurers to pay all the CPT codes of a given procedure or operation at the same time.

For the House of Delegates, there was testimony in the virtual Reference Committee hearing in support of this resolution due to concerns that, with the implementation of the federal No Surprises Act, some health insurers are staggering processing and payment for various aspects of patient care services related to out of network care provided by a physician in a hospital. At the same time, the reference committee had concerns that as presented, the resolution could be interpreted to encourage health insurers' delays in payment for other types of services if any part of the health care service was under review. For example, New York's current "Prompt Payment" law requires health insurers to pay any undisputed portion of a claim within 30 days of submission, but as written if enacted into law this resolution could enable health insurers to delay payment on all portions of a claim submission even if only one component of the claim was being contested. Therefore, the Reference Committee recommended referring this resolution to Council to understand the problem in greater detail towards creating the proper wording for this resolution.

There was significant discussion during the October 17th Legislative & Physician Advocacy Committee meeting that this is a topic that needs to be addressed given the significant challenges physicians are already facing having their out of network surprise medical bills resolved through the federal dispute resolution process.

Since the No Surprises Act went into effect at the beginning of 2022, physicians are reporting that health plans are processing claims in a manner that has increased administration burden due to the complex explanations of payments. This causes excessive follow up and confusion with regards to payment on specific CPT codes that are a part of the services rendered for the same surgical procedure. Since the concern appears to be related specifically to health insurers attempting to encumber the process for physicians to bring surprise medical bills to the federal dispute resolution process, the resolution should be clarified to make it specific to that scenario. At the Committee discussion for the December 14th meeting, suggestions were made that the goals of the resolution should be applicable to all out of network services that could be eligible for state or federal IDR.

RECOMMENDATION: That the MSSNY Council adopt the following substitute resolution.

RESOLVED, that the Medical Society of the State of New York advocate for legislation or other regulatory intervention to prohibit health insurers from making access to the state

and federal independent dispute resolution more difficult by separately processing various codes related to out of network services.