American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

INSURERS DENYING ER CARE
FACT SHEET

www.FairCoverage.org

- Health insurance companies have a long history of denying coverage and using scare tactics to prevent people from seeking emergency care.
- Anthem Blue Cross-Blue Shield has implemented a dangerous policy in six states to deny coverage for emergency patients based on secret lists of diagnoses (2,000 in Missouri). More states, and more health insurance companies, will follow, if this is not stopped.
- Anthem's policy is unlawful — it violates the prudent layperson standard, which is part of federal law, including the Affordable Care Act; nearly all the states also have state prudent layperson laws.
- Patients who are afraid their ER visit will not be covered by insurance will be more likely to delay care, which is very risky. Patients in 2016[i] reported getting sicker because they delayed emergency care out of fear of costs and insurance gaps.
- If you think you are having a medical emergency, you should seek emergency care.

What is Anthem Blue Cross Blue Shield doing and why is it harmful?

- In 2017, Anthem began warning their policyholders in Georgia, Kentucky and Missouri that if their ER visits end with a diagnosis for something that isn't an emergency, they will be responsible for the bill. This policy is scheduled to expand to Indiana, Ohio and New Hampshire in 2018.
- Most patients lack the medical knowledge and training to determine, for example, the difference between abdominal pain that is life-threatening and abdominal pain that isn't. The decision to "ride it out" instead of seeking emergency care could lead to lifelong disability or even death.
- Patients can't be expected to self-diagnose their medical conditions. Two people may have identical symptoms but have different diagnoses — one life-threatening, one non-urgent. There is nearly a 90-percent overlap in symptoms between emergencies and non-emergencies, according to a study in the Journal of the American Medical Association (2013)[ii].
- Patients who are afraid their ER visit will not be covered by insurance will be more likely to delay care, which is very risky.

What is the Prudent Layperson Standard?

- Health insurance companies for years denied claims based on final diagnoses instead of symptoms. In other words, if chest pain brought you to the emergency department, but turned out to be indigestion, the insurance company wouldn't pay.
- ACEP fought hard for many years at both the national and state levels to secure passage of legislation aimed at protecting emergency patients from retroactive denials of insurance coverage for emergency department visits for conditions that turned out not to be emergencies.

—In 1997, Congress enacted the Prudent Layperson Standard for Medicare and Medicaid managed care plans. https://www.ahcmedia.com/articles/48670-congress-adopts-prudent-layperson-standard-for-medicare-medicaid-enrollees The prudent layperson standard was extended to all federal employees in 1999. The Affordable Care Act in 2010 also extended the Prudent Layperson Standard even further to individual- and small-group health plans, and to self-funded employer plans. It also applies to veterans' care (https://www.law.cornell.edu/cfr/text/38/17.120).

--Forty-seven states (all except for Mississippi, New Hampshire, and Wyoming) have codified their own variations of the prudent layperson standard into state laws.

- The Prudent Layperson Standard requires health insurance companies to cover visits based on the patient's symptoms, not the final diagnosis. This means if a patient has chest pain, but turns out to have a non-urgent medical condition, such as a hiatal hernia, the insurance company must still cover the visit. It also eliminates the requirements for prior authorization before seeking emergency care.

What can patients do?

- Go to FairCoverage.org and learn more. If you live in one of the affected states and have a story to share about how your insurance coverage was denied for an emergency, let us know.
- Realize that insurance companies and employers are shifting health care costs onto patients and medical providers.
- Find out what your health insurance policy covers and demand fair and reasonable coverage for emergency care.
- Contact your state Department of Insurance and report violations of the prudent layperson standard by your insurer.
- Tell your state and federal legislators and demand that they ensure that the prudent layperson standard will not be violated. Health plans must provide fair payment for emergency services or emergency patients will suffer.
- The prudent layperson standard must remain in federal law and in any health care legislation that seeks to replace the Affordable Care Act.
- If you have the symptoms of a medical emergency seek emergency care. Most people seek emergency care appropriately, according to the CDC[iii]

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[i] ACEP Press Release and Poll: One in Four Americans, Fearing Insurance Gaps, Reported Medical Conditions Got Worse After They Delayed Emergency Care. October 11, 2016. http://newsroom.acep.org/2016-10-11-One-in-Four-Americans-Fearing-Insurance-Gaps-Reported-Medical-Conditions-Got-Worse-After-They-Delayed-Emergency-Care

[ii] JAMA. March 20, 2013. "Comparison of Presenting Complaint vs. Discharge Diagnosis for Identifying 'Nonemergency' Emergency Department Visits" Raven, MC; Lowe, RA; Maselli, J. 309(11):1145-1153.

[iii] CDC Table 7. 4 percent of emergency patients are classified as non-urgent. https://www.cdc.gov/nchs/data/nhamcs/web_tables/2014_ed_web_tables.pdf