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More information on your member benefits is available at http://www.cmanet.org/benefits.

Nominate a Colleague for the CMAF Leadership Awards

The deadline to submit nominations for the CMA Foundation's 2009 Leadership Awards is June 30. These awards celebrate the efforts of individuals or organizations that make a difference in the health of Californians.

The Robert D. Sparks, M.D., Leadership Award, the Ethnic Physician of the Year Award, and the Adarsh S. Mahal, M.D., Access to Health Care and Disparities Award recognize the compassion and commitment of California's health care professionals.

Nomination information and packets for each award are available in the "What's New" section of the Foundation website, http://www.thecmafoundation.org.

Contact: Carol Lee, Esq., 916/779-6622 or clee@thecmafoundation.org.

To be removed from this list, contact CMA by phone (888/231-7451), fax (916/444-5689), or e-mail (kboroski@cmanet.org).

CMA Objects to Regulations that Would Expand Nonphysicians' Scope of Practice

In September, CMA objected to regulations proposed by the California Department of Public Health (CDPH) that would have expanded the scope of practice of psychologists and potentially all other health care practitioners working in licensed health care facilities. The CDPH recently revised its proposal and while it no longer requires that medical staff membership be available to clinical psychologists in private hospitals, CMA still has concerns about the regulations.

The regulations continue to weaken the self-governance rights of medical staffs to establish and enforce certain rules for medical staff membership and privileges. The proposed regulations also remove specific reference to physician oversight in the performance of a number of critical duties, including discharging patients from hospitals, applying restraints to patients, and obtaining informed consent. The regulations as written could be broadly interpreted to allow unqualified health care professionals to carry out the duties of a physician or surgeon.

CMA has submitted comments on these revised regulations and will closely monitor this situation as it develops.

More information, including a copy of CMA's comments, is available at http://www.cmaalert.org.

Contact: Delilah Clay, 916/444-5532 or dclay@cmanet.org.

Physicians Beware of New Medicare Scam

CMA was recently notified of a new scam targeting physicians. According to the Centers for Medicare & Medicaid Services (CMS), perpetrators are sending faxes to physician offices posing as their Medicare carrier or Medicare Administrative Contractor. The faxes instruct physician staff to update their account information within 48 hours in order to prevent a gap in Medicare payments. The faxes sometimes have the CMS or contractor logo to enhance the appearance of authenticity.

While physicians may receive legitimate requests for information from Palmetto (California's Medicare contractor), they should always be extremely careful when providing anyone with sensitive account information. Physicians who receive requests for information in the same or a similar manner as described above should check with Palmetto before submitting any information. Medicare providers should only send information to Palmetto using the contact information found on the official Palmetto website, http://www.palmettogba.com.

Contact: CMA's reimbursement help line, 888/401-5911 or mkelly@cmanet.org.

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AMA Sets Policy on Health Reform, Physician Health Programs, and More

The California delegation to AMA's House of Delegates presented a number of important resolutions at the association's annual meeting in Chicago. The following are summaries of some of the resolutions that the AMA House adopted as policy.

Health System Reform (Res. 110): The delegates adopted a resolution asking AMA to support health system reform alternatives that are consistent with AMA principles of pluralism, freedom of choice, freedom of practice, and universal access for patients.

Physician Health Programs (Res. 402): The delegates approved a California-sponsored resolution affirming the importance of the AMA Office of Physician Health and Health Care Disparities and directing AMA to study the barriers to effective utilization of state physician health programs and the effectiveness of their confidentiality safeguards and funding mechanisms.

Effects of Uncoordinated Care (Council on Medical Service Report 8): Delegates asked AMA to study the existing data on the effects on cost and quality of care associated with the uncoordinated health care across medical disciplines, community resources, and governmental entities; and, if significant benefits are demonstrated by this study, explore how these benefits can be encouraged, financed, promoted and implemented.

More details are available at http://www.cmaalert.org.

Contact: Ginnie Yee, 415/882-5170 or gyee@cmanet.org.

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U.S. Supreme Court Denies Review of Injunction that Stopped Medi-Cal Cuts

The U.S. Supreme Court has let stand a federal appeals court ruling that reversed the 10 percent Medi-Cal cut that took effect last July. The ruling also confirmed the right of California's Medi-Cal providers to challenge state cuts to Medi-Cal provider reimbursement.

On August 18, 2008, a federal court in Los Angeles issued a preliminary injunction that forced the State of California to reverse the 10 percent Medi-Cal reimbursement cut, finding that the cuts would irreparably harm access to health care for nearly 7 million Californians.

This is an enormous victory for Medi-Cal patients and the physicians who care for them. CMA's legal efforts will result in slightly more than $100 million going to physicians for providing health care to the poor than would have absent CMA's efforts.

With the State of California facing an unprecedented budget deficit, this latest ruling sends lawmakers a clear message that they cannot balance the budget on the backs of the state's poor or those who provide their health care.

Contact: Clarisa Sanchez, 916/551-2867 or csanchez@cmanet.org.

CMA Tells Appeals Court that Hospitals Must Not Be Allowed to Usurp Medical Staff Peer Review Authority

CMA recently told a California appeals court that it must prevent hospital governing boards from unlawfully usurping medical staffs' peer review authority. In this case, El-Attar, M.D. v. Hollywood Presbyterian Medical Center, the medical staff executive committee (MEC) found no basis to deny a physician's reappointment to the medical staff. Despite this decision, the hospital's lay governing board bypassed the MEC and picked its own biased peer review panel, which included physicians with economic ties to the hospital. The hospital-appointed panel then refused to renew the physician's medical staff privileges.

Despite medical staff bylaws that clearly require peer review hearing officers and judicial review committees be appointed by the medical staff, a lower court ruled that this "delegation" of peer review activity was permissible. On appeal, the hospital does not appear to deny that it violated the bylaws, but rather, argues that the purported delegation of authority was permissible under California law. CMA believes that neither the medical staff's bylaws nor California law supports such an interpretation. CMA submitted an amicus brief explaining that medical staffs cannot, except in rare circumstances, delegate this critical responsibility. Medical staffs are required to abide by their bylaws, and those bylaws must be consistent with the fair hearing provisions as defined in California's Business & Professions Code (§§809 et seq).

Also at issue in this case is the proper standard for determining the impartiality of hearing panel members. The lower court ruled that the standard is whether there is a "direct financial benefit." CMA also explained it its brief that the proper test is not whether someone is "actually biased," but whether "a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity, impartiality, and competence."

CMA has urged the court to carefully scrutinize the facts in this case to ensure that the peer review process was conducted fairly.

Contact: Astrid Meghrigian, 916/444-5532 or ameghrigian@cmanet.org.

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ONCHIT Releases Draft Guidelines for "Meaningful" EHR Use

Last week, Office of the National Coordinator for Health IT (ONCHIT) released its first draft of proposed "meaningful use" standards. Physicians and hospitals will be required to meet these standards to receive subsidy payments for use and implementation of electronic health records under the federal economic stimulus law.

Beginning in 2011, qualifying Medicare physicians who demonstrate "meaningful use" stand to receive up to $44,000 under the program; qualifying Medi-Cal physicians stand to receive as much as $65,000.

The guidelines lay out goals and objectives for five broad topic areas: improving quality, safety, efficiency, and reducing health disparities; engaging patients and families; improving care coordination; improving population and public health; and ensuring adequate privacy and security protections for personal health information. Under each broad heading, the proposal lays out a series of objectives and quality reporting measures to be reached in 2011, 2013, and 2015. It appears that most if not all of the quality reporting measures for 2011 are based on the existing Physicians Quality Reporting Initiative (PQRI) system.

CMA submitted comments on these draft guidelines, urging ONCHIT to create flexibility to accommodate different practice settings and sizes. As written, the guidelines would create one uniform standard for all physicians, regardless of practice setting or size. This could create a scenario where solo and small group practices face an unfair burden.

CMA also urged ONCHIT to equalize the onus of quality reporting between primary care and specialties. Currently the 2011 quality measures would create a greater reporting burden for primary care physicians.

More information is available in CMA's HIT Resource Center, http://www.cmanet.org/HIT.

Contact: David Ford, 916/551-2554 or dford@cmanet.org.

To be removed from this list, contact CMA by phone (888/231-7451), fax (916/444-5689), or e-mail (kboroski@cmanet.org).

State May Issue IOUs; Medi-Cal Payments not Immediately Affected

Last week, State Controller John Chiang announced that the state will begin issuing registered warrants, commonly known as "IOUs," on July 2 if a new state budget deal is not in place. Traditionally, the state has covered cash shortages through short-term borrowing. This year, however, a combination of the credit crunch on Wall Street and the state's sagging credit rating has made that very difficult. Governor Schwarzenegger has also said that he will not allow any borrowing until a budget agreement is reached.

According to the controller's office, this will not immediately affect Medi-Cal providers. Medi-Cal payments will continue until the state's cash reserves are completely exhausted, which would come sometime in September. Healthy Families plans will also continue to receive payments from the state.

Physicians will receive IOUs, however, for services provided in the California Children's Services, Child Health and Disability Prevention, and Genetically Handicapped Persons, and Expanded Access to Primary Care programs. Normal payments for these programs will begin after the new budget is in place.

The state will also delay payments for one week at the end of June so that those claims are paid out of the 2009-2010 fiscal year budget. This "checkwrite" delay will impact abortion services and Healthy Families, in addition to the programs listed above.

Contact: David Ford, 916/551-2554 or dford@cmanet.org.

CMA Urges Court to Protect Voter-Enacted Drug Treatment Program

CMA recently submitted an amicus brief in a case that will determine the fate of Proposition 36, California's landmark drug-treatment-instead-of-incarceration initiative. At issue in this case is Senate Bill 1137, signed into law by Governor Schwarzenegger in 2006, which would radically change Prop. 36 by allowing judges to incarcerate people who suffer drug relapses during treatment.

Prop. 36, the Substance Abuse and Crime Prevention Act, was approved in 2000 by 61 percent of California voters. It reformed criminal sentencing laws by enrolling most nonviolent drug offenders in community-based treatment programs, rather than jailing them. CMA believes that implementing SB 1137 would impermissibly alter the core medical and public health approach of Prop. 36 and could thwart the effectiveness of rehabilitation and treatment programs favored by California voters when they passed Prop. 36.

SB 1137 would also permit courts, who are not medical professionals, to terminate or interrupt a treatment program due to a participant's drug relapse. CMA opposed this bill when it was before the Legislature.

In 2006, the trial court invalidated SB 1137 because it both contradicts specific mandates of Prop. 36 and does not further the initiative's purpose. This case is now before the First District Court of Appeal in San Francisco.

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House Unveils Detailed Health Reform Proposal

House Democratic leaders recently unveiled the details of their health reform plan. CMA is currently analyzing the 800+ page bill and will provide a detailed analysis later this week. In the meantime, below are some highlights:

Medicare Physician Payment Formula: The draft bill – written jointly by the three House Committees with health reform jurisdiction – contains a long overdue overhaul to the Medicare sustainable growth rate (SGR) formula used to calculate payments to physicians. Without legislative action this year, physicians face a 21 percent cut in 2010 and an additional 6 percent cut annually for several years thereafter.

The bill would eliminate the current SGR and $285 billion in future physician payment cuts. The new methodology would create two new spending targets, one for primary care and one for all other services. While such a system

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Don't Miss Your Chance to Influence CMA Policy

CMA is the largest, most influential medical organization in California, and an aggressive advocate for doctors and patients. We are your voice in state and federal government, in the courts, in the media, and in battles with regulators and health insurers. But it is members like you who help set the policies that guide CMA's advocacy agenda. Don't miss your chance to influence the future of medicine in California and across the nation.

Submitting resolutions to our policy-making legislative body, the House of Delegates, is the most direct way for members to influence CMA policies on key issues. Any CMA member may author a resolution, but a delegate, alternate delegate, component medical society, or specialty delegation must submit the resolution.

Resolutions must be submitted by e-mail to resolutions@cmanet.org by August 4. For more information on submitting a resolution, contact your county medical society.

This year's House of Delegates will be October 17-19, in Anaheim.

Contact: Roger Purdy, 916/444-5532 or rpurdy@cmanet.org.

Missed a Webinar? View It On-Demand at CMA Website

Did you miss one of CMA's live webinars? All webinars are available for on-demand playback shortly following the live presentations in the webinar archives at CMA's members-only website, http://www.cmanet.org/calendar.

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- How the Stimulus Bill Impacts Your HIPAA Obligations
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- What the Balance Billing Ban Means for Physicians

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Contact: Shannon Navarra-Lujan, 800/786-4CMA or slujan@cmanet.org.

would create a more stable, predictable fee schedule, it may not be adequate to keep pace with physician costs. It appears that the automatic annual updates for primary care would be approximately 2 percent and the updates for all other services 1 percent. CMA and AMA are currently analyzing the impact the new formula would have on physicians.

There is also a supplemental 5 percent annual rate increase for primary care services a 5 percent "efficiency" bonus payment for physicians practicing in low-spending regions. Neither of these bonuses is funded by decreasing payments to specialists. The bill also authorizes demonstration projects through which physicians can affiliate and form accountable care organizations and receive bonus payments for outpatient and inpatient Medicare savings in their regions.

Medi-Cal Rate Increase: In another important victory for physicians and patients, the House proposal would increase the Medi-Cal primary care rates to Medicare levels. CMA has been urging Congress to increase all Medi-Cal rates to Medicare levels as Congress expands Medicaid to cover the uninsured. CMA will continue to fight to increase specialty rates as well

Mandatory Health Insurance: The House proposal would require everyone to have health coverage. It would accomplish this by expanding the Medicaid program to cover low-income families up to 133 percent of the federal poverty level (FPL); providing tax credits and subsidies to families up to 400 percent of the FPL to help them purchase insurance; and requiring medium and large employers to offer health insurance to their employees or pay into a fund on behalf of their uncovered workers.

Although we strongly support the health coverage expansion called for in this proposal, CMA is concerned that these reforms will be illusory if they don't also guarantee meaningful access to doctors. CMA believes that Congress must increase all Medicare and Medicaid reimbursement rates. Without these important rate increases, the promise of access to care for the uninsured will be a false one.

Public Health Plan: As we previously reported, the House proposal also establishes a national health insurance exchange, through which the uninsured (and only the uninsured) will be able to purchase insurance. The exchange would include both private insurance plans and a new public government-run plan. The House bill does not require all participating Medicare physicians to also participate in the new public plan. While CMA believes that a public plan could help to curb abusive behavior by private health plans and be more open to innovation, CMA is extremely concerned that the public plan pay competitive rates, compete with the private plans on a level playing field (i.e., no government subsidies, same oversight regulations), and allow physicians to privately contract with patients.

CMA also strongly opposes mandatory physician participation in any health plan. Although the current language would not require physicians to participate in the new public plan, there are many in Congress who favor mandatory participation.

Geographic Payment Localities: The bill would in 2011 transition California's outdated geographic payment localities in to metropolitan statistical areas (MSA). It holds harmless physicians who would otherwise see their payments cut by this transition for five years. Although CMA supports the MSA transition, we are strongly advocating that physicians who would face payment cuts be permanently held harmless.

CMA President Dev GnanaDev, M.D., was in Washington, D.C. last week advocating CMA's position with the powerful California committee chairmen, Henry Waxman and Pete Stark, and others. CMA urges physicians to call or meet with their Members of Congress this week while they are in California for the July 4th Congressional recess. Urge them to continue to eliminate the SGR, to increase all Medi-Cal rates to Medicare levels, and to address CMA concerns related to the public plan option (outlined above).

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