

California and National News

HMO Rates Continue to Rise, But the Pace May Be Slowing: HMO premiums rates are expected to rise an average 18 percent in 2004, compared with 21 percent a year earlier, continuing a trend of double-digit health-care-cost increases, according to preliminary figures from Hewitt Associates, a human-resources consulting firm that captures health-maintenance-organization rate information for nearly 140 large employers.

Meanwhile, employers, unable to continue paying higher premiums, have changed plan designs to lower costs by raising deductibles, co-payments or asking employees to pay some of their premiums out of their own pockets. According to Hewitt, the number of companies with a \$15 co-payment for a physician's office visit increased this year to 43 percent from 24 percent in 2002. Employers offering a \$10 co-payment declined to 39 percent this year from 58 percent last year, the data showed. Employees also are being asked to pay more for prescription drugs, and more employees are participating in three-tier prescription drug benefits plans. (From *The Wall Street Journal*, June 24, 2003.)

CMA Encourages Support for 911 Emergency and Trauma Care Act: CMA dues statements this fall will include a request for contributions to support the Coalition to Preserve Emergency Care (CPEC) 2004 ballot initiative—the 911 Emergency and Trauma Care Act. The act would increase the 911 telephone surcharge to 3.7 percent on calls made within California, raising \$600-\$800 million annually to support the emergency and trauma care system, including ER and on-call physicians.

One third of that money would be dedicated to pay unpaid physician charges incurred by uninsured and self-pay patients. In FY 2000-01, those charges totaled more than \$150 million. The surcharge would also fund 911 emergency dispatch, hospitals, and community clinics. CMA is a founding member of CPEC and has worked on the initiative for 18 months.

“Physician contributions would be returned many times over,” says CMA President Ronald Bangasser, M.D. “By investing in this initiative, physicians will bolster the emergency and trauma networks statewide and provide a stable funding source for medical services provided by ER and on-call physicians.” Contact: Peter Warren, (213) 630-1126 or pwarren@cmanet.org. (From *CMA Alert*, August 21, 2003.)

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Maine OKs Nation's First Universal Health Plan: The Maine Legislature on June 13, 2003, approved the nation's first health plan that provides medical care for all state residents. "This is probably as explicit and inclusive a health-care program as you can get," said Arthur Levin, director of the non-profit Center for Medical Consumers in New York. "It is saying, 'We want to cover everybody in our state, one way or another.'" The plan creates an independent executive agency called Dirigo Health, which will work with private insurers to guarantee health coverage by 2009 to all Maine residents who cannot afford insurance.

The bold move to expand health coverage in Maine—a notoriously poor state—comes at a time when many cash-strapped states are talking about paring back medical coverage, or are struggling to hold on to what they have. In addition to expanding Medicaid to encompass more subscribers in Maine, the new Dirigo Health system is aimed at those who cannot afford high-deductible premiums under current health policies. Among Maine's 1.2 million residents, about 189,000 cannot afford health coverage. Architects of the plan hope to provide insurance for at least 31,000 people within the first year of operation, expanding to 189,000 by 2009.

The plan—named for the state motto *Dirigo*, the Latin term for "I lead"—also seeks to rein in medical costs by establishing voluntary price caps for providers, hospitals and insurers. The legislation includes the creation of a state-run health watchdog group called the Maine Quality Forum. The agency will gather and disseminate information about health-care costs and quality, and will encourage the use of technology in health care.

Although the plan does not call for a general tax increase, some funding will come from a tax on insurance companies. The effort also will rely on \$50 million in federal funds, as well as \$80 million that the state will save by cutting down on non-reimbursed medical expenses accrued by the uninsured. The program cobbles funds from so many sources that health-care analysts have called it a "Rube Goldberg" approach to health care. (From the *Los Angeles Times*, June 14, 2003.) [Editor's Note: The bill was signed into law by the Maine governor within the week.]

Calpers Is to Raise HMO Premiums by at Least 16.7%: Health care just got a lot costlier for many Californians. The board of the California Public Employees' Retirement System, with \$138 billion in assets, voted 7-5

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[June 18, 2003] to raise HMO premiums of Calpers members by an average between 16.7% and 18.4% in 2004. Officials at the nation's largest public pension fund said they fought hard to keep rising health-care costs down as much as possible. "It's a national problem, and we're going to do what we can to control it," Calpers' health-benefits committee chairman, Sidney Abrams, said in a conference call.

The pension fund defended its new rates, saying they amounted to only half of what HMOs had initially proposed in the still-inflationary health-care market. As part of its new rate schedule, Calpers also adjusted co-payments for emergency-room visits at \$50, and changed the amount of members' co-payments of nonformulary prescription drugs. Seventy percent of the pension fund's 1.2 million members belong to HMOs, which gives the rate increase a pervasive effect. Calpers uses three major health maintenance organizations: Blue Shield of California, Kaiser Permanente and Western Advantage.

Final rates are subject to further negotiation, according to the pension fund. Calpers' increases this time around are lower than the average 25% increase it implemented for 2003, but still higher than some analysts' forecasts. The big increases are a sign that Calpers is no longer the national leader it once was in controlling health-care costs, according to some critics. (From *The Wall Street Journal*, June 19, 2003.)

AMA and CMA File Brief Backing Ventura Medical Staff: Weighing in on behalf of physicians, AMA and CMA this week filed an amicus brief backing the medical staff of Community Memorial Hospital in Ventura in its legal fight with the hospital administration. The brief urges the court to recognize a medical staff's legal right to operate as an organized and self-governing entity in the hospital, citing the need to ensure quality of care for patients.

The medical staff is suing the hospital administration for violating state laws requiring medical staff self-governance. The suit alleges that the administration usurped the medical staff's credentialing, standard setting, disciplinary, and quality assurance functions; refuses to recognize duly elected medical staff officers; unilaterally amended the medical staff bylaws; improperly interfered with the medical staff's efforts to review and update its bylaws; and illegally seized the medical staff dues fund totaling \$250,000.

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The hospital is arguing that the medical staff is not a separate entity under the law. The organized medical staff, it says, is just another department within the hospital, and as such lacks standing to sue the hospital.

CMA's brief, filed with the Superior Court in Ventura, discusses the many state and federal legal precedents that establish and reinforce a medical staff's position as a separate legal entity, and how that status permits it to best assure high-quality patient care. Under California law, medical staffs are responsible for setting patient-care standards, establishing and enforcing medical staff membership standards, and ensuring that patients obtain quality care through continuous peer review and evaluation. The brief argues that "there is no question that, under California law, a hospital medical staff has standing to enforce its legal rights."

"It is critical that this court prohibit lay intrusions into the medical staff's legitimate and proper realm of decision-making," says CMA president Ronald Bangasser, M.D. "If hospital boards are allowed to run roughshod over their medical staffs, without regard for the staff's rights to self-governance and to assure quality care, the ability of hospital medical staffs to provide quality care in hospitals will be jeopardized throughout the state." Contact: Greg Abrams, (415) 882-3350 or gabrams@cmanet.org. (From *CMA Alert*, July 24, 2003.)

Anesthesiologists Donate Thousands to Ventura Medical Staff's

Fight: Calling for donations from other specialty societies, the California Society of Anesthesiologists' executive committee recently made a five-figure gift to CMA's Legal Defense Fund, which is supporting the medical staff of Ventura's Community Memorial Hospital in its legal battle with the hospital administration.

"We feel that a strong response from organized medicine is imperative," wrote CSA president H. Douglas Roberts, M.D., in a letter that accompanied the check. "I sincerely hope CMA will get comparable donations from other specialties. This is a time when we all must participate in preventing a tragic precedent from being established."

CMA leaders immediately expressed gratitude to CSA members and others who have given to the Legal Defense Fund. "To all who have contributed, thank you," says CMA CEO Jack Lewin, M.D. "To those who haven't, we

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need your help urgently. The hospital shows no sign of letting up on its legal assault against the medical staff. The plan seems to be to outspend the physicians to win. We won't let that happen." Contact: Greg Abrams, (415) 882-3350 or gabrams@cmanet.org. (From *CMA Alert*, July 24, 2003.)

Judge Rules Ventura Doctors Can Proceed with Lawsuit: The Ventura County Superior Court handed a significant legal victory to the medical staff of Community Memorial Hospital, ruling that it has standing to sue as an unincorporated association under California law.

The medical staff filed suit against the hospital in April, alleging the hospital administration is violating state laws that require medical staff self-governance. The hospital had argued that the medical staff is not a separate entity under the law, but rather a department within the hospital, and as such lacks standing to sue the hospital.

Judge Henry J. Walsh ruled that the medical staff may legitimately bring before the court "two core issues"—who controls a \$250,000 medical staff bank account and whether the hospital board can force medical staff members to adhere to a "code of conduct" as a condition of obtaining hospital privileges.

Several of the medical staff's court claims were ruled to be improper, however, because they are worded as violations of individual physicians' rights. The ruling permits the medical staff to rewrite those claims so that they are clearly presented as issues in which all medical staff members have a direct interest and resubmit them as part of the lawsuit.

"This is a very important ruling for physicians and medical staffs across the country," says CMA CEO Jack Lewin. "But the fight is far from over. Thank you again to all who have contributed to CMA's Legal Defense Fund. To those of you who haven't, CMA urgently needs your support in this important legal battle." Contact: Greg Abrams, (415) 882-3350 or gabrams@cmanet.org. (From *CMA Alert*, August 14, 2003.)

Ventura Medical Staff Stands Strong: At a general medical staff meeting last week, the medical staff of Community Memorial Hospital in Ventura reasserted its right to self-governance by formally rebuffing hospital administration attempts to supplant the duly elected medical staff officers.

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The show of solidarity took place on August 19, as James Woodburn, M.D., the board-appointed “chief of staff,” attempted to call the meeting to order. He was told by several staff members that he lacked the authority under the medical staff bylaws to run the meeting. During the ensuing discussion, numerous medical staff members asked that the meeting be run by their elected chief of staff, John Hill, M.D. At that point, the 137 medical staff members in attendance stood and gave Dr. Hill a standing ovation, causing Dr. Woodburn to give up the podium and leave the meeting, followed by the hospital’s CEO, its lawyer, and other administrators.

Dr. Hill was elected chief of staff by the medical staff in November 2002. The hospital administration has refused to recognize Dr. Hill and other democratically elected medical staff officers, alleging that they have financial conflicts of interest with the hospital. Earlier this year, the hospital board unilaterally imposed a policy that forbids any doctor with a competing financial interest from serving as a medical staff officer, being a member of any medical staff committee, or voting on any medical staff matter. Dr. Hill has a 1.2 percent interest in a surgicenter in Ventura.

This was the first general medical staff meeting held on hospital grounds since August 2002. Off-campus meetings have been held at the financial expense of the medical staff. Departmental reports presented at the meeting revealed that departmental staffs have also been pressured by the hospital administration to elect different leaders or have them appointed by the hospital board.

For the third time in as many medical staff meetings, the staff members voted overwhelmingly to reaffirm their support for the lawsuit against the hospital. The vote was 110-5. “This strengthens our resolve in going forward,” said Dr. Hill. “We are now seeing more and more physicians making huge sacrifices, speaking out and taking a stand in reestablishing our self-governance.” Contact: Greg Abrams, (415) 882-3350 or gabrams@cmanet.org. (From *CMA Alert*, August 28, 2003.)