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Backlash at bills for medical mistakes

Firms tired of paying for low-quality care

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If you go to a restaurant and get a bad meal you probably won't have to pay for it. And lemon laws allow consumers who buy cars that never work right to get their money back.

But in health care there is no tradition of rebates--even when a hospital surgical team leaves a sponge in a patient's chest cavity after open-heart surgery, or when a mix-up of a patient's medication causes a prolonged illness, employers and insurers say.

Tired of paying for botched medical-care procedures and low-quality medical care, some of the nation's largest businesses Wednesday called on U.S. hospitals to agree to apologize and waive costs related to "never" events--medical errors these employers say should never happen.

Both the Leapfrog Group, a national coalition of large health-care purchasers such as **Boeing** Co., General Motors Corp. and General Electric Co., and the Midwest Business Group on Health, a Chicago-based business coalition representing more than 80 local employers, said hospitals should commit to a new policy on 28 health-care "never" events as a way to make providers of medical care more accountable.

Many of the errors, such as a surgery performed on the wrong body part or mixing up donor sperm for an artificial insemination, would seem obvious fodder for a malpractice suit and a settlement worth more than the bill for the procedure.

But other errors on the list, such as "retention of a foreign object in a patient after surgery" or patient injury associated with "contaminated drugs, devices or biologics provided by the health-care facility," are probably more common and fixing them compounds the soaring cost of health care.

Hospitals are committed to "making it right" with patients when they make mistakes, the industry's Washington-based lobby and trade group said.

"We agree that these `never' events should never occur and we are working hard to make sure they are not only rare, but more and more rare each day," said Richard Umbdenstock, president-elect of the American Hospital Association, which represents more than 4,800 of the nation's hospitals. "We certainly agree that when they do occur and it can be tragic, we need to reach out and make it right. They are very much doing this already."

But while the hospital group said it believed most hospitals would sign on to the Leapfrog group's policy, they said there would be instances in which "hospitals and patients" would have to work the situation out themselves, citing complexities of cases.

Providers face pressure

It seems obvious to some that most consumers and many companies would support a don't-pay-for-errors approach, and as such the industry is also expected to sign on, given the momentum in Washington and state governments to demand that medical-care providers adhere to basic quality standards. The seriousness of the errors on the group's list could make defending a demand for payment for these errors hard to justify and cause a political firestorm if hospitals did not comply.

One hurdle is that few states require hospitals to report their errors. Although egregious errors such as those on the list are considered rare, there were more than 100 "never" events reported by hospitals in Minnesota in its most recent reporting year.

In Illinois, state health officials are still working through the details on how hospitals will report such incidents under terms of a law signed last year.

There is momentum to go beyond serious errors to consider more routine problems, such as hospital-borne infections and other quality issues, as part of the nationwide debate over paying medical care providers based on performance.

Still, when such serious errors occur, the business community picking up the tab for insurance says patients should get an apology and patients and their insurers or employers should not be billed.

Under Wednesday's proposal, it may be that hospitals would not bill for the original treatment or would absorb the costs for additional treatment needed after the error. According to Leapfrog, details of "what constitutes `waiving cost' should be handled on a case-by-case basis by the parties involved."

Such errors add to health-care costs that have spiraled upward for years.

At least one study suggests medical errors and low-quality health care account for 30 percent of the more than $2 trillion spent on medical care in the United States.

The push by U.S. businesses comes as Congress and the Bush administration consider imposing financial penalties on providers when such errors occur.

Earlier this year the Centers for Medicare & Medicaid Services, which runs the nation's largest health insurance programs, said it would work with Congress to investigate potential ways to reduce reimbursement to providers that commit "never" events.

Number of events unknown

Although federal officials say the exact number of "never" events is unknown, the Centers for Medicare & Medicaid said they are costly to the system and believe they could number in the tens of thousands annually.

Already, health insurers say they are working clauses into hospital contracts that preclude them from being billed for "never" events and say there is momentum to apply that practice to lesser errors.

On Jan. 1, 2005, Minneapolis-based health insurer HealthPartners Inc. required hospitals in its network to report errors to the state department of health and not bill its health plan members for a "never" event.

"We do see this as an important signal to the health-care system about transparency and an expression of pay-for-performance," said Babette Apland, senior vice president of health-care management for HealthPartners, a health plan with more than 600,000 members.

"To consumers, to people, this makes sense," she added. "I think it gives us the framework to stop payment when there is this type of extremely poor quality. I think there is a lot of interest in the industry about payment reform and how we pay for value."