Facility Fee Limits

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Issue

Summarize limits on health care facility fees under Connecticut law. This report updates OLR Report 2022-R-0181.

Summary

Under Connecticut law, a "facility fee" is any fee a hospital or health system charges or bills for outpatient hospital services provided in a hospital-based facility that is (1) intended to compensate the hospital or health system for its operational expenses and (2) separate and distinct from the provider's professional fee (CGS § 19a-508c(a)(3)).

In certain circumstances, Connecticut law limits the facility fees that hospitals, health systems, and hospital-based facilities may charge. For services at hospital-based facilities off-site from a hospital campus, the law generally prohibits them from collecting a facility fee:

1. for outpatient services that use a current procedural terminology evaluation and management (CPT E/M) code or CPT assessment and management (CPT A/M) code) or
2. from uninsured patients for outpatient services that exceeds the Medicare facility fee rate (CGS § 19a-508c(*l*)).

Starting July 1, 2024, a new law also generally prohibits hospitals or health systems from charging facility fees for certain on-campus outpatient procedures using the above codes that are not provided in the emergency department (PA 23-171, § 9, effective July 1, 2023; see below).

Both the existing limits and the new limits do not apply to (1) freestanding emergency departments or (2) Medicare and Medicaid patients or those receiving services under a workers' compensation plan (CGS § 19a-508c(g) & (*l*)).

PA 23-171, § 9, repealed a prior provision that made it an unfair trade practice to violate the existing facility fee limits described above. Instead, starting July 1, 2024, the act provides a process for the Office of Health Strategy to issue civil penalties of up to $1,000 and cease and desist orders for violations of the existing limits or the new limits, other than violations due to isolated clerical or electronic billing errors. The act establishes related notice and hearing requirements.

In addition to the above limits, Connecticut law also prohibits telehealth providers from charging facility fees for telehealth services. For hospitals, the prohibition specifically applies whether the services are provided on or off campus (CGS § 19a-906(h)).

Connecticut law also prohibits hospitals, health systems, or hospital-based facilities that purchase physician group practices from charging facility fees at the purchased facility until a specified period after notifying the practice's patients (CGS § 19a-508c(k)).

New Prohibition on Certain On-Campus Facility Fees

Starting July 1, 2024, PA 23-171, § 9, prohibits hospitals or health systems from charging facility fees for certain on-campus outpatient services that use a CPT E/M or CPT A/M code.

This new limit does not apply to emergency departments located on the hospital campus. It also does not apply to observation stays on a hospital campus and CPT E/M and CPT A/M codes when billed for wound care, orthopedics, anticoagulation, oncology, obstetrics, and solid organ transplant.

Existing law allowed hospitals or health systems to continue to collect insurance reimbursement for otherwise-prohibited facility fees if an insurance contract in effect on July 1, 2016, reimbursed these fees. They could continue to do so until the earlier of the contract's expiration, renewal, or amendment. In relation to the act's new limit on certain on-campus fees, the act extends this provision to insurance contracts in effect on July 1, 2024.

As under existing law, the act's facility fee limits do not apply to Medicare and Medicaid patients, patients receiving services under a workers' compensation plan, or freestanding emergency departments.

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