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12:20 Friday

Hi Melissa -

Here's a draft background piece

I'd appreciate any comments you have.
Colleen Melman

EARLY MATERNAL DISCHARGE

File
Waltham Care -
Maternity Stays
The Issue

Health insurers are increasingly limiting payment for hospital stays for new mothers and their infants to 24 hours or less after a normal birth and 48 to 72 hours after a Caesarian birth. These "early maternal discharge policies" conflict with guidelines developed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, which recommend a 48 hour hospital stay following a normal birth and a 96 hour stay after a Caesarian. (Under these guidelines, earlier discharge is acceptable only when certain physical criteria are met, and the pediatricians state that these criteria are "unlikely" to be met in less than 48 hours.)

Insurers argue that they are not setting arbitrary limits on hospital stays, but rather creating incentives for doctors to manage care more appropriately. They also state that:

- Childbirth is a normal, natural process, and should not be treated like an illness requiring extensive hospital stays.
- Hospitals are full of germs, and thus are a less safe environment for infants than home.

Insurers also argue that childbirth is the most common reason for hospitalization in the country, and thus that it is very important to manage it in a cost-effective manner.

On the other hand, doctors report that they are under severe pressure to discharge patients earlier than they think is medically appropriate. They argue that 24 hours or less is unsafe for the following reasons:

- Newborns who are discharged early are more likely to develop undetected jaundice, which can lead to brain damage, stroke, and even death.
- Twenty-four hours does not provide sufficient opportunity for mothers to learn how to breastfeed (since their milk does not come in until 24 hours after birth) and that early discharge can lead to feeding problems and serious dehydration.
- There are serious but treatable genetic disorders which can not be tested for until the second day of life. Infants who are discharged early may never receive these tests until it is too late to prevent the disorder.
- Both mothers and infants can develop serious infections during the second day following birth. While these infections can be successfully treated if caught in time, they can be fatal if not caught early enough. Physicians argue that if the mother and infant are at home, the symptoms are less likely to be observed and treated promptly.
- Many heart defects can not be observed on the first day of life, but the chances of observing them improve on the second day.

It is important to note that there are no data clearly indicating whether or not early maternal discharge policies actually have a noticeable impact on health outcomes. (While studies have been done on this issue, they all contain methodological flaws or are not relevant to the current debate.) Nevertheless, there is considerable anecdotal evidence suggesting that early maternal discharge policies can result in serious negative health impacts. These "horror stories" have become so widespread that there has been a recent groundswell of public support for legislation on this issue.

In response to this public concern, numerous bills have been introduced at both the state and national level which would guarantee mothers a minimum 48 hour hospital stay (96 hours for a C-section). These bills are discussed below.

Overview of Bills

All of the federal bills, and most of the state bills, require health insurers to provide hospital coverage for mothers and their newborns for up to 48 hours following a normal birth and 96 hours following a Caesarian section. These bills all permit the mother to go home earlier if she would like. However, the bills differ in the amount of authority which they give providers in deciding if and when early discharge can occur. For example, some House bills and several State bills say that the mother can insist on staying for 48 hours even if her doctor does not think it is necessary. On the other hand, the Bradley (S.969) and Solomon/Miller (H.R. 3226) bills state that the "provider, in consultation with the mother" can decide if early discharge should occur. It is unclear whether this language would permit a doctor to discharge a patient early without her consent.

All of the national and state bills require that insurers provide coverage for follow-up care if discharge occurs at less than 48 hours. The bills differ in their level of detail regarding how much care must be provided, by whom, and in what setting.

The bills also differ in the populations they cover. The DeFazio bill applies only to ERISA plans, while the original Miller bill applies only to FEHBP. The Bradley (S.969) and Solomon/Miller (H.R. 3226) bills apply to all privately insured patients (but not to Medicaid patients or the uninsured). State bills generally apply to all members of health plans that are regulated by the state (but not to ERISA plans).

Congressional Action

A. Senate

The first and most prominent of the federal bills was introduced by Senators Bradley and Kassebaum. A revised version, known as Bradley/Kassebaum/Frist, was introduced earlier this spring. This bill was approved by the Labor Committee on a 14-2 vote in late April, and is expected to be brought to the floor under a unanimous consent agreement in the next few weeks. It currently has 39 cosponsors (25 Democrats and 14 Republicans).

B. House

On the House side, there are several bills similar to the Bradley-Kassebaum-Frist bill. While Gerald Solomon (R-NY) and George Miller (D-CA) both introduced their own bills last year, they recently introduced a joint bill which is the companion to the Bradley bill. Reps. Torricelli, Pallone, Klezka, DeFazio, Sanders, and Towns each have their own bill. Rep. Dingell plans to introduce his own bill in the next few days.

State Action

Sixteen States have already passed enacted laws seeking to limit early maternal discharge, and another 25 States are currently considering similar legislation. In addition, 2 states have addressed this issue through regulation rather than statute. However, States that have passed laws are finding that, largely due to the ERISA exemption, the provisions do not apply to roughly half of their privately-insured women. Representatives from these states have called for national legislation to close these loopholes.