

July 16, 2019

The Honorable Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce  
2322A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden:

The undersigned organizations believe a fair and equitable independent dispute resolution (IDR) process is an essential component of any surprise billing solution and should be included in any final bill coming out of the House Energy and Commerce Committee to ensure the legislation is balanced and does not result either in unfair payments to physicians or unreasonable bills to health plans. We fully support the central goal of the No Surprises Act to protect patients from surprise medical bills when they unknowingly receive services from out-of-network providers in in-network facilities. We also support the provisions in the No Surprises Act that would ensure patients are only responsible for in-network cost-sharing in these situations, and that their cost-sharing count toward in-network deductibles and out-of-pocket maximums. We also agree that patients should be taken out of any payment disputes between physicians and insurers that arise from these situations.

However, once the patient is protected from surprise medical bills, it is equally important to ensure that the legislation does not create new imbalances in the private health care marketplace by undermining the ability of doctors to secure fair reimbursement for their services. The health insurance marketplace is already heavily consolidated. Instituting a federal government rate-setting scheme that allows private insurers to force discounted rates on physicians, hospitals and other health care providers based on their median 2019 in-network rates puts both network and non-network providers at a disadvantage and will result in sudden drops in reimbursement for emergency and nonemergency hospital-based care. This will create patient access problems, particularly in rural areas and other underserved populations that are already experiencing health care provider shortages. In fact, the California Department of Managed Health Care reports consumer access to care complaints have increased 48% since California passed its surprise billing law. There are also preliminary reports that California insurers are seeking to drive down in-network median payments by dropping providers from their network who are currently paid above the median.

The undersigned organizations believe that legislation should include a fair IDR process narrowly tailored to resolve payment disputes regarding noncontracted out-of-network care. Such a process should be set up to incentivize health plans to make a fair initial offer of payment for out-of-network care rendered to their customers and discourage physician bills that are outside of generally acceptable ranges. It also should encourage, rather than discourage, both parties to contract for in-network care. The process should be structured to include a range of factors to be considered in the case of an appeal; factors such as the complexity of the service rendered, the experience of the physician providing the service, the rate that physicians charge for the service in a geographic area, and insurance data from an independent source. We recommend the Committee look to the states for examples of where such appeals processes are working to resolve payment disputes in a manner both insurers and providers perceive as fair without negatively impacting patient access to hospital-based services or premiums.

The undersigned organizations look forward to working with you to forge a more balanced approach to best protect patients and their access to health care.

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Sincerely,

American Medical Association  
American Academy of Allergy, Asthma & Immunology  
American Academy of Dermatology Association  
American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Neurology  
American Academy of Otolaryngology- Head and Neck Surgery  
American Academy of Physical Medicine and Rehabilitation  
American Association of Clinical Urologists  
American Association of Hip and Knee Surgeons  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American Association of Public Health Physicians  
American College of Allergy, Asthma & Immunology  
American College of Cardiology  
American College of Emergency Physicians  
American College of Gastroenterology  
American College of Legal Medicine  
American College of Mohs Surgery  
American College of Obstetricians & Gynecologists  
American College of Osteopathic Internists  
American College of Osteopathic Surgeons  
American College of Physicians  
American College of Radiology  
American College of Surgeons  
American Epilepsy Society  
American Gastroenterological Association  
American Medical Group Association  
American Medical Women's Association  
American Orthopaedic Foot & Ankle Society  
American Osteopathic Association  
American Psychiatric Association  
American Society for Aesthetic Plastic Surgery  
American Society for Clinical Pathology  
American Society for Gastrointestinal Endoscopy  
American Society for Surgery of the Hand  
American Society of Anesthesiologists  
American Society of Clinical Oncology  
American Society of Echocardiography  
American Society of Hematology  
American Society of Neuroimaging  
American Society of Neuroradiology  
American Society of Plastic Surgeons  
American Urological Association  
American Academy of Ophthalmology  
Association of American Medical Colleges  
Association of University Radiologists  
College of American Pathologists  
Congress of Neurological Surgeons

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Medical Group Management  
National Association of Medical Examiners  
Renal Physicians Association  
Society for Interventional Radiology  
Society for Vascular Surgery  
Society of Hospital Medicine  
Society of Interventional Radiology  
Society of Retina Specialists  
Society of Thoracic Surgeons

Medical Association of the State of Alabama  
Alaska State Medical Association  
Arizona Medical Association  
Arkansas Medical Society  
California Medical Association  
Colorado Medical Society  
Connecticut State Medical Society  
Medical Society of Delaware  
Medical Society of the District of Columbia  
Florida Medical Association Inc  
Medical Association of Georgia  
Hawaii Medical Association  
Idaho Medical Association  
Illinois State Medical Society  
Indiana State Medical Association  
Iowa Medical Society  
Kentucky Medical Association  
Maine Medical Association  
MedChi, The Maryland State Medical Society  
Massachusetts Medical Society  
Michigan State Medical Society  
Minnesota Medical Association  
Mississippi State Medical Association  
Missouri State Medical Association  
Montana Medical Association  
Nebraska Medical Association  
Nevada State Medical Association  
New Hampshire Medical Society  
Medical Society of New Jersey  
New Mexico Medical Society  
Medical Society of the State of New York  
North Carolina Medical Society  
North Dakota Medical Association  
Ohio State Medical Association  
Oregon Medical Association  
Pennsylvania Medical Society  
Rhode Island Medical Society  
South Carolina Medical Association  
South Dakota State Medical Association  
Tennessee Medical Association

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Texas Medical Association  
Vermont Medical Society  
Medical Society of Virginia  
Washington State Medical Association  
West Virginia State Medical Association  
Wisconsin Medical Society  
Wyoming Medical Society