

July 29, 2020

The Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. Capitol Building, H-222
Washington, DC 20515

The Honorable Mitch McConnell
Senate Majority Leader
U.S. Capitol Building, S-230
Washington, DC 20510

The Honorable Kevin McCarthy
House Republican Leader
U.S. Capitol Building, H-204
Washington, DC 20515

The Honorable Charles Schumer
Senate Democratic Leader
U.S. Capitol Building, S-221
Washington, DC 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer:

The undersigned state and national medical societies, representing hundreds of thousands of frontline physicians, thank you for your continued efforts to respond to the COVID-19 pandemic. As you know, this public health crisis is stressing physician practices more than any time in our country's history. Unfortunately, despite the fragility of physician practices, some see an opportunity to include surprise medical billing provisions in the next COVID-19 relief package. America's physicians strongly agree that it is critical to protect patients from surprise medical bills, and we firmly believe that a thoughtful, measured federal solution is possible to achieve. **However, now is not the time to adopt divisive surprise billing legislation.**

It is important to note that physicians who have received emergency funding cannot balance-bill coronavirus patients, thus helping ensure that patients do not receive a surprise medical bill during the pandemic. Furthermore, the medical community remains committed to working with Congress to seek a broader solution that protects patients from unanticipated medical bills when their insurer fails to provide them with an adequate network of physicians. At the same time, it is imperative that any solution should facilitate a process to quickly, efficiently, and fairly resolve physician and health plan billing disputes.

As conversations regarding a final compromise solution continue, physicians strongly believe that the **following provisions are essential** to any surprise medical billing legislative solution to ensure patients' continued access to quality care:

- Patients must be protected and should only be **responsible** for their **in-network cost-sharing** amounts, including deductibles, when receiving unanticipated medical care.
- To keep patients out-of-the-middle of any payment disputes between health plans and providers, **provide physicians with direct payment/assignment of benefits** from the insurer.
- Following the delivery of out-of-network medical care, a **reasonable payment should be paid to providers**. A benchmark payment rate set at **median or mean in-network contract rates or some percentage of Medicare is insufficient** because it fails to recognize nuances in individual patient care, will increase health care costs by accelerating consolidation in the health care market, jeopardizes the emergency care safety net and restricts patient access to in-network physicians.
- If the provider determines that the insurer's payment is not reasonable, there must be a **fair, accessible and equitable independent dispute resolution (IDR) process** to resolve payment disputes. An accessible IDR process **must not be restricted to claims above a specific dollar**

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amount/threshold. Providers should also not be limited to accessing the IDR process only after a “cooling off” period. To maximize administrative efficiency, providers **should be allowed to “batch” claims** for the same or similar service under the same insurance provider.

Additionally, this baseball-style dispute resolution process should incorporate a set of dispute resolution guidelines that allow for **equal weight to be given to the following elements** to ensure a balanced and fully informed decision:

- + Rates for comparable services in the same geographic region considered reasonable based on commercial insurance rates from an independent and transparent database of all commercial payer claims data;
- + Any previous contracting history;
- + Demonstration of good-faith efforts (or lack thereof) made by either party (i.e. the out-of-network provider or the health plan) to enter into network contracts;
- + Market share held by the out-of-network health care provider or the health plan;
- + Level of training, education, experience, outcomes, and quality metrics of the physician providing the service;
- + Complexity of the services rendered;
- + Individual patient characteristics; and
- + Any additional relevant factors contributed by either party.

Any payment rate base year should be no later than 2018 and should include an appropriate mechanism to ensure that future payments keep pace with inflation.

- To prevent surprise medical bills from occurring in the first place, health plans should be held accountable for **provider networks that are appropriate to meet patients’ medical needs** — including ensuring access to specialists and subspecialists on a timely basis, including in a facility. Health plans must also ensure that that **provider directories are up-to-date and accurate.** However, patients must be allowed to **access elective out-of-network care** when they so choose.

We thank you for your ongoing efforts to provide the resources physicians need to respond to the COVID-19 pandemic. The coronavirus has placed an extraordinary strain on our country’s physicians and hospitals, and it is, therefore, imperative that Congress refrain from actions that will further disrupt the health care system. Like you, we strongly agree that patients must be protected from surprise medical bills, and we reaffirm our commitment to devise a balanced approach. However, the complexity and multifaceted nature of the issues pertaining to surprise medical bills warrants due consideration from Congress. Any final proposal to address unanticipated medical bills should be addressed separately from any forthcoming COVID-19 relief legislation.

We thank you for your consideration.

Sincerely,

American Medical Association
AMDAs - The Society for Post-Acute and Long-Term Care Medicine

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American Academy of Allergy, Asthma & Immunology
American Academy of Dermatology Association
American Academy of Emergency Medicine
American Academy of Facial Plastic and Reconstructive Surgery
American Academy of Ophthalmology
American Academy of Otolaryngology- Head and Neck Surgery
American Academy of Physical Medicine and Rehabilitation
American Association for Geriatric Psychiatry
American Association for Physician Leadership
American Association of Child & Adolescent Psychiatry
American Association of Clinical Endocrinologists
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 and Immunology
American College of Cardiology
American College of Emergency Physicians
American College of Gastroenterology
American College of Obstetricians and Gynecologists
American College of Osteopathic Internists
American College of Osteopathic Surgeons
American College of Radiology
American College of Rheumatology
American College of Surgeons
American Epilepsy Society
American Gastroenterological Association
American Geriatrics Society
American Orthopaedic Foot & Ankle Society
American Osteopathic Association
American Pediatric Surgical Association
American Psychiatric Association
American Society for Clinical Pathology
American Society for Dermatologic Surgery Association
American Society for Gastrointestinal Endoscopy
American Society for Laser Medicine and Surgery
American Society for Metabolic and Bariatric Surgery
American Society for Radiation Oncology
American Society for Surgery of the Hand
American Society of Anesthesiologists
American Society of Breast Surgeons
American Society of Cataract & Refractive Surgery
American Society of Echocardiography
American Society of Hematology
American Society of Neuroradiology
American Society of Plastic Surgeons

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American Society of Retina Specialists
American Urological Association
Association for Clinical Oncology
College of American Pathologists
Congress of Neurological Surgeons
Heart Rhythm Society
International Society for the Advancement of Spine Surgery
Medical Group Management Association
National Association of Medical Examiners
National Association of Spine Specialists
Obesity Medicine Association
Renal Physician Association
Society for Cardiovascular Angiography and Interventions
Society for Vascular Surgery
Society of American Gastrointestinal Endoscopic Surgeons
Society of Interventional Radiology
Spine Intervention Society
The Society of Thoracic Surgeons

Medical Association of the State of Alabama
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
Kansas Medical Society
Kentucky Medical Association
Louisiana State Medical Society
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

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New Hampshire Medical Society
Medical Society of New Jersey
New Mexico Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma 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
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Medical Society of Virginia
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society