August 5, 2019

Dear Senator:

The undersigned 33 organizations representing public and private employers, labor unions, and the consumers they represent urge you to consider three key points about the surprise medical billing debate underway in Congress.

1. **The surprise medical billing problem is driven by a small number of outlier providers.** According to research from Yale University, 15 percent of hospitals have out-of-network billing rates for emergency services above 80 percent, while 50 percent of hospitals have out-of-network billing rates below two percent. This is largely attributable to a handful of private equity firms exploiting a market failure. Physician staffing companies, often owned by hedge funds or private equity firms, are increasingly acquiring certain types of providers (like emergency room doctors) and then implementing a business strategy that incentivizes surprise bills. Unfortunately, these staffing companies are price-gouging patients and employers and most aggressively leveraging the threat of surprise billing to gain market power in negotiations with employers and health plans. In this instance, certain providers, predominantly specialty providers, do not experience a change in the volume of patients they see based on the prices they charge or their network status because patients have no meaningful role in their selection. Title I of S. 1895, *The Lower Health Care Cost Act*, which was favorably reported out by a bipartisan vote of 20 to 3 by the Senate Committee on Health, Education, Labor, and Pensions, addresses this private equity generated problem in a market-based, consumer-centric way that is fair to all stakeholders.

2. **A benchmark payment based on local, in-network rates would ensure provider payment takes into account the cost of providing care in each market while directly addressing the problem of out-of-network outliers who continue to charge extreme rates.** Data show that in many cases a median, in-network rate would still far exceed the Medicare rate provided for the same service in the area. For example:

    - Anesthesiologists are reimbursed a median contracted amount of 344 percent of Medicare;
    - Emergency physicians' average contracted rates are 306 percent of Medicare; and,
    - Radiologists' average contracted rates are 200 percent of Medicare.

Experience in the states show that a benchmark payment rate is a market-friendly way to ensure patient access to care and lower costs for families and employers. For example, a year after implementation of California's payment benchmark, at least two health plans have seen 5 – 7 percent increases in the number of hospital-based providers they contract with at acute care facilities.

3. **Punting the problem of determining a reimbursement rate to government-mandated arbitration may seem less intrusive, but the reality is this just kicks the can down the road and places control in a government-mandated arbiter, rather than local negotiations.** Arbitration is a remedy without merit. It makes the entire process of addressing surprise medical billing more confusing, less transparent, and more expensive for consumers, employers and taxpayers. For example, an initial leaked estimate from the Congressional Budget Office found that arbitration would cost $1 billion in new administrative fees. Our health care system needs less complexity and lower costs – not more. Congress should not create additional confusion and expense by mandating arbitration as a way to settle surprise medical billing.

Patients, employers, consumers, and labor unions are deeply concerned about the burden that unexpected medical bills from out-of-network providers place on employees and their families. Unfortunately, the surprise billing problem has been fueled by a handful of private equity firms and providers that are exploiting a market failure and price gouging patients and their families. Supporting the local, market-based benchmark provisions in Title I of S. 1895, T*he Lower Health Care Cost Act*, will protect patients without undermining network participation or increasing health care costs for all consumers. We urge you to oppose government-mandated arbitration, which will increase confusion, complexity and costs. Thank you for your attention to this important issue.

Sincerely,

AFL-CIO
American Benefits Council
American Rental Association
Associated General Contractors of America
Auto Care Association
Colorado Business Group on Health
Corporate Health Care Coalition
Council for Affordable Health Coverage

Florida Alliance for Healthcare Value
HealthCare 21 Business Coalition
Healthcare Purchaser Alliance of Maine
HR Policy Association
Kansas Business Group on Health
Laborers' International Union of North America (LIUNA)
MidAtlantic Business Group on Health
National Alliance of Health Care Purchaser Coalitions
National Association of Health Underwriters
National Association of Wholesaler-Distributors
National Business Group on Health
National Retail Federation
North Carolina Business Group on Health
Pacific Business Group on Health
Partnership for Employer-Sponsored Coverage
Public Sector HealthCare Roundtable
Retail Industry Leaders Association
Self-Insurance Institute of America
Small Business & Entrepreneurship Council
SMART Transportation Division
The Employers' Advanced Coalition on Healthcare
The ERISA Industry Committee
The Society for Patient Centered Orthopedics
UNITE HERE
Wyoming Business Coalition on Health