

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  
AMDA - 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