



October 2, 2019

The Honorable Mitch McConnell
Senate Majority Leader
S-230 United States Capitol
Washington, DC 20510

The Honorable Charles E. Schumer
Senate Minority Leader
S-221 United States Capitol
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
H-222 United States Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
House Minority Leader
H-204 United States Capitol
Washington, DC 20515

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

The 40 undersigned organizations, representing millions of patients and consumers across the country who face serious, acute, and chronic health conditions, write today to urge Congress to move quickly to find common ground on the issue of surprise medical billing and work together to protect patients from the potential of massive medical debt.

Together, our organizations understand what individuals and families need to prevent disease, manage health, and cure illness. As the 116th Congress progresses, we welcome the opportunity to work with members on both sides of the aisle on solutions that will preserve coverage for individuals who are currently covered, extend coverage to those who remain uninsured, and lower costs and improve quality for all.

As you know, “surprise billing” results when an insured patient is unknowingly treated by an out-of-network provider and is then billed the difference between what the provider charged and what the insurer paid. Surprise bills can be significantly higher than the consumer’s standard in-network cost-sharing and can lead to significant financial hardship for patients already struggling with a serious condition.

Surprise billing affects millions of consumers each year and is a growing problem. According to a study released last month in *JAMA Internal Medicine*, surprise out-of-network billing is becoming more common and potentially more costly in both the emergency department and inpatient settings.¹ Recent academic studies have found that approximately one out of every five emergency department visits involve care from an out-of-network provider². Another study found that the physician specialties most likely to send surprise bills are anesthesiology, interventional radiology, emergency medicine, pathology, neurosurgery, and diagnostic radiology³ but occur in almost all medical settings regardless of the type of provider. Surprise bills occur for people in all types of health insurance plans. For example, even among large employer plans, nearly one-in-ten non-emergent inpatient procedures involved a potential surprise bill.⁴

We are heartened that efforts to address surprise billing have been prioritized in both the House and Senate and on both sides of the aisle. Members of Congress seem to understand the devastating financial impact that surprise billing has on those it affects.

We appreciate that legislation introduced by the committees of jurisdiction hold patients harmless in most instances of surprise billing; however, there is much more to be done, and we urge Congress to move swiftly and decisively to pass legislation. Despite the complexity of this issue and the diverse array of stakeholders, we hope Congressional leaders will continue their efforts, forge common ground, and work towards a resolution that protects patients.

¹ <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2740802>

² Cooper, Zack, Fiona Scott Morton. 2016. “Out-of-network emergency-physician bills—an unwelcome surprise.” *NEJM* 2016; 375:1915-1918. <https://www.nejm.org/doi/full/10.1056/NEJMp1608571>.

³ Bai G, Anderson GF. Variation in the Ratio of Physician Charges to Medicare Payments by Specialty and Region. *JAMA*. 2017;317(3):315–318. doi:10.1001/jama.2016.16230.

⁴ Garman, Christopher, Benjamin Chartock. 2017. “One in Five Inpatient Emergency Department Cases May Lead to Surprise Bills.” *Health Affairs*. Vol 36. No. 1 <https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0970>.

We evaluate any legislation on surprise medical billing by whether it increases affordability, accessibility, and adequacy of health coverage and care. To that end, we assert that legislation addressing surprise medical billing should meet the following standards:

- ***Hold Patients Harmless:*** Any policy addressing surprise billing must ensure that patients are held financially harmless. When patients receive services from an out-of-network provider for which they have the reasonable expectation that the service was performed in-network (for example, services performed at an in-network facility, or services ordered by an in-network provider), the patient should incur no greater cost-sharing than if the service was performed by an in-network provider. Any such cost-sharing should accrue to in-network deductibles and out-of-pocket caps.
- ***Apply Protections to All Insurance Plans:*** Surprise billing protections should apply to all commercial health insurance plans, including individual, small group, large group, and self-insured plans as applicable.
- ***Apply Protections to All Surprise Bills:*** Protections should apply to all surprise bills, regardless of the amount of the bill. Patients and their families have so many expenses that any surprise bill can be challenging.
- ***Apply Protections to All Care Settings:*** Surprise billing protections should be applicable regardless of provider type or care setting. Policies should not limit these protections to just emergency services, hospital services, or certain types of specialists.
- ***Require Transparency in Addition to – Not Instead of – Surprise Billing Protections:*** Increased transparency for patients is not a sufficient way for policymakers to address the problem of surprise billing. In the vast majority of surprise billing cases, the affected patient has little ability to seek an alternative in-network provider, even if given more information. While our organizations support greater transparency requirements for plans and providers, such requirements are insufficient to meaningfully protect patients from surprise bills.
- ***Conduct Additional Research:*** Surprise billing can occur for a variety of reasons, including the inadequacy of a plan's provider network. Policymakers that enact surprise billing protections should also consider requiring data collection on the incidents of surprising billing to determine whether additional policies are warranted (for example, enactment of more robust network adequacy requirements).
- ***Strengthen State Protections Instead of Weakening Them:*** Any federal protections against surprise billing should set a floor to ensure that at least this level of protection exists in all states, but not pre-empt stronger state-level protections where these rules apply.
- ***Protecting Patients who Utilize Emergency Transportation:*** Our organizations are deeply concerned about the impact of balance billing practices on individuals who require emergency transportation. Emergency transportation services reduce transport time for patients during life-threatening situations and are a critical component of successful treatment for individuals experiencing a serious health event. Patients in these situations have no choice over who provides care or how they are transported and are frequently balance billed as a result. Policymakers should craft policies that protect patients in all health care settings, including emergency transportation settings.

Again, please continue your efforts to address the issue of surprise medical billing, in order to help lower the out-of-pocket medical costs for those with serious, acute, and chronic medical conditions. We stand ready to work with you to advance this worthy goal.

For more information or to discuss further, please direct your staff to contact Katie Berge of the American Heart Association at katie.berge@heart.org. Thank you for your consideration.

Sincerely,

Alpha-1 Foundation
ALS Association
American Cancer Society Cancer Action Network
American Diabetes Association
American Heart Association
American Kidney Fund
American Liver Foundation
American Lung Association
Arthritis Foundation
Chronic Disease Coalition
COPD Foundation
Cystic Fibrosis Foundation
Digestive Disease National Coalition
Dystonia Advocacy Network
Dystonia Medical Research Foundation
Epilepsy Foundation
Family Voices
GBS|CIDP Foundation International
Hemophilia Federation of America
International Foundation for Gastrointestinal Disorders
Interstitial Cystitis Association
Leukemia and Lymphoma Society
Lupus Foundation of America
Mended Little Hearts
Muscular Dystrophy Association
National Alliance on Mental Illness
National Health Council
National Hemophilia Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
NephCure Kidney International
Project Sleep
Pulmonary Hypertension Association
Restless Legs Syndrome Foundation
Scleroderma Foundation
Susan G. Komen
The Marfan Foundation
US Hereditary Angioedema Association
WomenHeart: The National Coalition for Women with Heart Disease

Cc:

Senate HELP Committee Chairman Lamar Alexander
Senate HELP Committee Ranking Member Patty Murray
Senate Finance Committee Chairman Charles E. Grassley
Senate Finance Committee Ranking Member Ron Wyden
House Majority Leader Steny H. Hoyer
House Energy and Commerce Committee Chairman Frank Pallone, Jr.
House Energy and Commerce Committee Ranking Member Greg Walden
House Ways and Means Committee Chairman Richard E. Neal
House Ways and Means Committee Ranking Member Kevin Brady
House Education and Labor Committee Chairman Robert C. Scott
House Education and Labor Committee Ranking Member Virginia Foxx