July 10, 2019

Chairman Frank Pallone
Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Ranking Member Greg Walden
Energy and Commerce Committee
2185 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden,

On behalf of the National Association of Health Underwriters, I want to commend your efforts to end surprise billing with the introduction of the "No Surprises Act." NAHU represents 100,000 licensed agents and brokers who are engaged in the sale and service of health insurance and other ancillary products. Our members serve employers and consumers around the country. They work daily to help consumers navigate a labyrinth of healthcare-coverage options that work best for them, but they also expend an extraordinary amount of time assisting consumers who use their benefits, particularly around claims adjudication caused by surprise bills.

As you know, the current system is stacked against the consumers, who have no leverage with the provider or hospital. Patients are asked to sign paperwork that allows balance-billing from non-network providers with vague and ambiguous language. Often they are asked to do this when under duress, during an emergency or while actively preparing for a procedure. Some who were in the unfortunate situation of not being conscious at the beginning of care find that they have received almost all of their care from out-of-network providers, from the ambulance to the ER doctor and hospital. The amounts billed are so high in many cases that the result is collection action and a damaged credit report.

We support the Committee's bipartisan approach to protecting consumers by prohibiting balance-billing for all emergency services and requiring that consumers only be held responsible for the amount they would have paid in-network. We also believe that patients receiving scheduled care should be given written and oral notice at the time of scheduling about the provider's network status and any potential charges they could be liable for if treated by an out-of-network provider. These notices need to be provided in language that can be easily understood by patients. The notices should also provide them with information on how to seek a provider in-network to prevent any excess charges by an out-of-network provider, especially in circumstances when patients cannot reasonably choose their provider.

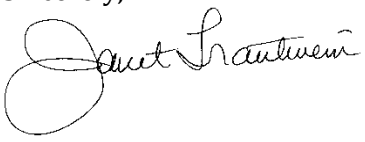
Most important, we support the Committee's commitment to establish a payment benchmark to resolve out-of-network payment disputes between providers and insurers. We recognize there were several suggestions offered to determine how to simplify the calculation used to determine the maximum amount an out-of-network provider can be reimbursed. We believe establishing a benchmark system is best by looking to the average cost of care by similar providers in a similar geographic area, in some cases engaging the data from all payer claims databases to assist in setting that benchmark. This practice limits out-of-network providers from billing patients charges well beyond those billed by in-network providers by taking several measures into account, from geographic location to average provider reimbursement to a percentage of cost sharing.

We further support this approach because we believe that using a benchmarking system will result in a lowering of healthcare costs, where other proposals to limit surprise billing will have the opposite effect. For example, we are cautious when considering arbitration procedures to resolve balance-billing disputes. Although an arbitration system would allow for a third-party arbiter to gauge the suggested level of payment by both the patient and the healthcare provider, the fact that this decision is binding could still result in patients being responsible for exorbitant costs from out-of-network providers. We are also concerned that this could lead to increased use of the arbitration system and burden consumers with the cost and efforts of hiring an attorney to represent them. Further, in states that currently engage in "baseball-style" arbitration, the system does not apply to self-funded plans. Self-funded plans may choose to opt in to being regulated by this policy, which leaves an uneven playing field in terms of the markets where arbitration can occur.

The practice of surprise billing must come to an end, and we are encouraged by the bipartisan language provided in the No Surprises Act to do so by establishing a payment benchmark to resolve out-of-network payment disputes between providers and insurers.

We appreciate your bipartisan leadership on the No Surprises Act to protect consumers, lower healthcare costs and increase access to quality, affordable healthcare. If you have any questions, or if NAHU can be of assistance as you move forward, please do not hesitate to contact me at either (202) 595-0639 or jtrautwein@nahu.org.

Sincerely,



Janet Stokes Trautwein
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National Association of Health Underwriters