

May 14, 2019

The Honorable Bill Cassidy  
United States Senate  
520 Hart Senate Office Building  
Washington, DC 20510

The Honorable Michael Bennet  
United States Senate  
261 Russell Senate Office Building  
Washington, DC 20510

The Honorable Lisa Murkowski  
United States Senate  
522 Hart Senate Office building  
Washington, DC 20510

The Honorable Maggie Hassan  
United States Senate  
324 Hart Senate Office Building  
Washington, DC 20510

The Honorable Todd Young  
United States Senate  
185 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Tom Carper  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510

Dear Senators:

As organizations representing providers caring for millions of patients nationwide, we are encouraged by your work with various healthcare stakeholders to craft legislation that protects patients nationwide. We believe that no patient should receive a surprise medical bill for out-of-network care and that any legislative solution must hold patients financially harmless; increase transparency; promote strong provider networks; and ensure patients continue to receive the highest quality of care. However, not every solution currently being considered meets these basic standards.

One recent proposal intended to address surprise medical bills is hospital bundled billing, which we believe is one of the most complex, intrusive, and disruptive of the proposed solutions to unexpected medical bills. This untested proposal has no track record of success in the states and would lead to a series of unintended consequences that could be highly disruptive to our healthcare system.

Bundled billing would require intrusive government intervention in the contracting negotiating process between payers and providers. Furthermore, bundling would create two separate systems of reimbursement, one for ERISA patients and one for Medicaid, Medicare, and fully insured commercial patients. This extra layer of complexity will reduce transparency and increase inefficiencies and costs to the system.

For rural communities, bundling could endanger patients' access to care. Today, twenty one percent of rural hospitals are at high risk of closing and are experiencing an alarming physician shortage. Hospital-based physicians care for a much higher percentage of uninsured, Medicaid, and Medicare patients than other doctors. This is particularly true in the emergency room, where patients are treated regardless of their ability to pay.

Doctors, especially emergency room physicians, rely on being paid a fair market value for the quality care they provide. If they are paid artificially low rates because of a take-it-or-leave-it bundling system, or a system that ties rates to low-reimbursement levels in Medicare, billions of dollars in losses would be shifted to hospitals, which are already operating on razor-thin profit margins – if they're profitable at all.

Bundling would disproportionately affect vulnerable patient populations that rely on those smaller community systems and rural facilities, as the hospitals treating them are already struggling financially. This in turn would lead to further consolidation among providers – both hospitals and physicians – meaning fewer choices and higher costs for patients. Any solution that shifts the financial burden onto cash-strapped hospitals or discourages physicians from being in-network must be avoided. Bundling unfortunately does both.

Another proposal that has received attention is network matching, which we believe falls short in protecting patients from surprise medical bills and would mean the government is picking winners and losers in our healthcare system.

Network matching is for the most part unnecessary. Most providers, insurers, and hospitals are already matched. Out-of-network patients covered by commercial insurance make up only 5 percent of all emergency department visits. Network matching—which is another policy proposal that is without precedent in the states—would disrupt 95 percent of the market. There is already significant incentive for all stakeholders to be in-network. For hospitals, being in-network means patients have a higher satisfaction rate and lower chance of receiving an out-of-network bill. For providers, being in-network increases patient volume, offers more referrals through network directories, and reduces financial uncertainty with prompt, reliable, and consistent payments from insurers. Insurers prefer hospitals and providers to be in-network because having a high-quality health network is attractive to patients, and therefore helps insurers market their plans and retain customers.

Network matching would upset the balance of power between insurers, providers, and hospitals. If the onus is on hospitals to hire providers that are in the same network, or for the provider to join the same networks as the hospital, the providers lose leverage when negotiating with insurers, because the provider must be in network to work. They have no power to ensure fair compensation. If the requirement is for the insurance company to bring both the hospital and provider into their network, the insurer loses leverage over negotiating rates because both hospitals and providers know that without their support, the insurance company cannot meet network matching requirements. Thus, in this scenario insurers have little to no say in negotiating fair rates.

Both bundling and network matching seem like simple and attractive solutions to the problem of surprise medical bills. However, the untested nature of both proposals, and the series of unintended consequences that would result would greatly harm our healthcare system, especially patients' access to quality care.

Congress has a choice when it comes to solving the issue of surprise billing and we respectfully ask the bipartisan working group to reject any proposal – such as those outlined in this letter – that would cause so much disruption to our healthcare system without truly protecting patients.

Together, we stand ready to assist you in developing a comprehensive bi-partisan solution that protects patients, ensures access to care and improves transparency to end surprise billing for all Americans.

Sincerely,

American Society of Plastic Surgeons  
Emergency Department Practice Management Association  
Physicians for Fair Coverage  
Society of Hospital Medicine