

Surprise Medical Bills

COSPONSOR THE BIPARTISAN H.R. 3502 “PROTECTING PEOPLE FROM SURPRISE MEDICAL BILLS”

Authored by physician Congressmen Raul Ruiz (D-CA) Phil Roe (R-TN) Ami Bera (D-CA) + 70 cosponsors.

CMA agrees patients must be protected from surprise medical bills when their federally-regulated ERISA plans fail to provide them with an adequate network of physicians. There is broad agreement that legislation should protect patients from surprise bills. However, there is strong disagreement over the process to resolve insurer-physician contracting and payment disputes.

CMA believes the following criteria are essential to any legislative solution:

- + Patients must be protected from surprise medical bills..
- + Insurers must offer physician networks that are adequate to meet patients’ medical needs, including hospital-based emergency physicians, and on-call surgeons and anesthesiologists who will be there when patients face emergencies.
- + Accurate market data should be used to establish out-of-network payment benchmarks and linked to a database that is transparent and independent of insurers or physicians. CMA is urging a compromise on the benchmark.
- + There must be a fair process to resolve disputes. Instead of government rate-setting for private insurance, there should be a market-based dispute resolution process that incentivizes insurers and physicians to contract in good faith and resolve payment disputes instead of costly legal battles that drive up patient health care costs.
- + Access to care for patients must be preserved.

CMA urges Congress to support H.R. 3502. It is modeled after the proven 2014 law in New York that protects patients from surprise medical bills and establishes a fair, inexpensive baseball arbitration process where the arbiter chooses between the insurer’s payment offer and the physician’s fee. This system has motivated both sides to be more reasonable and resolve their differences prior to arbitration. In fact, out of 7.5 million ER claims, only 859 have even gone to arbitration and the final decisions have been evenly split between insurers and physicians. Final payments are not set by the government but based on market data from an independent, transparent database and clear factors, such as the complexity of the care. In New York, patients are protected, networks are stable, out-of-network payments are declining and insurance premium growth below the national average.

Contrast the New York experience with the unintended consequences of the 2016 California surprise billing law (AB 72). While the California law has successfully protected patients from surprise medical bills, the rest of the law is not working. Insurers across the state are refusing to contract with physician groups because they can just pay the low rate established in state law. Insurers are cancelling longstanding, 25-year-old contracts with physicians or imposing untenable payment cuts of 20-45%. Insurers’ physician networks are diminishing and access to care is in jeopardy for not only in-network care but for on-call surgeons and physician specialists who care for patients in the middle of the night when an emergency strikes. A state regulator just reported a 48% increase in patient access to care complaints since 2016. (See the attached CMA letter to the Energy Commerce Committee providing detailed California examples.) Finally, CMA is concerned that the wrong policy could drive more consolidation in the health care market and further increase costs.

States have been the laboratories for surprise billing laws. CMA urges Congress to avoid the failures in California’s law (mirrored in the Senate HELP and House E&C Committee bills) and adopt the more proven framework in New York.

PROTECT PATIENTS, ESTABLISH A FAIR PROCESS, PRESERVE ACCESS TO CARE

Additional Priorities

SUPPORT THE HOUSE LEADERSHIP MEDICARE PRESCRIPTION DRUG NEGOTIATION BILL

This soon-to-be- introduced legislation would authorize Medicare to negotiate drug prices with drug manufacturers and immediately make prescription medications more affordable for our patients. Under the current Medicare program, drug manufacturers set the price while all other providers (hospitals and physicians) are subject to a government fee schedule. The VA negotiates prices with the drug-makers and their costs are 38-50% less than Medicare. This bill will improve access to necessary medications. CMA is asking that the bill include Part B physician-administered in-office drugs, as well as Part D drugs.

COSPONSOR H.R. 3107 THE BIPARTISAN "IMPROVING SENIORS TIMELY ACCESS TO CARE ACT" (Ami Bera, MD (D-CA) Mike Kelly (R-PA) Suzan DelBene (D-WA) Roger Marshall, MD (R-KS))

H.R. 3017 would reform the Medicare Advantage Prior Authorization process for approving medical care recommended by a patient's physician. It would streamline the process to allow Medicare patients to receive more timely access to care and help relieve physicians of unnecessary, costly and time-consuming administrative tasks. In a recent AMA survey, 91% of physician respondents reported that prior authorizations have a negative impact on patient clinical outcomes. A 2017 patient survey reported month long waiting times for treatment approvals; 28% of patients said it took more than three months.

COSPONSOR LEGISLATION TO PREVENT CALIFORNIA PHYSICIAN SHORTAGES AND ACCESS TO CARE PROBLEMS (Josh Harder (D-CA) and original cosponsors)

This bipartisan bill will be introduced after the August recess. In 2007, Congress passed bipartisan legislation to provide public service student loan forgiveness to physicians who provide care in non-profit health care facilities for 10 years. Unfortunately, the implementing regulation inadvertently precluded California and Texas physicians from participating in the program because these physicians are prohibited from being employed under state law. This legislation makes a technical clarification consistent with the original statute. It will ensure that physicians in California and Texas are eligible for the same loan forgiveness that physicians in all of the other 48 states receive. If California physicians cannot obtain loan forgiveness, they will choose not to practice in California, and we will experience even greater physician shortages and significant access to care problems, particularly in children's hospitals, community hospitals, and rural regions.

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