



April 2, 2019

The Honorable Frank Pallone  
Chairman  
Committee on Energy and Commerce  
United States House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce  
United States House of Representatives  
2322-A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden:

America's physicians, hospitals and health systems are fully committed to protecting patients from surprise medical bills. No patient should have the added stress and financial burden of receiving a bill for out-of-network emergency care that they could not avoid or out-of-network care that they reasonably could have expected to be in-network. Our organizations support a federal legislative solution to protect patients in these scenarios that limits patients' cost-sharing obligations to the in-network amount, and prohibits balance billing when the opportunity for health plans and providers to arrive at a fair payment rate is ensured.

The simplicity of the solution outlined above is in stark contrast to the complexity of another, untested idea that has been raised as part of the important dialogue about solving this issue: hospital bundled billing. This concept may seem simple and straightforward in theory; in reality however, this approach would be administratively complex, fundamentally change the relationship between hospitals and their physician partners, and alone, does nothing to protect patients from surprise bills. We strongly oppose such a model.

Bundled billing is not appropriate for many types of medical services. For example, the unique nature of emergency care – namely uncertainty and the potential for high variation – makes it a poor candidate for bundled payments. Several variations of bundled payments for episodes of care have been implemented over the past decade with mixed success. Developing such an arrangement involves a complex array of clinicians, statisticians, lawyers and others to define the services and duration of the bundle, to appropriately price it, and to ensure that any financial relationships between the various providers adhere to state and federal law, including the Stark law and the Anti-Kickback Statute. To-date, bundling has been tested by the Center for Medicare & Medicaid Innovation and some commercial payers in limited circumstances and, in general, early results indicate it could work for services for which the clinical care pathway is well defined and little variation is expected, such as for certain planned joint replacements. Even so, for the vast majority of these bundles, physicians and hospitals continue to negotiate their own rates with insurers. Any individual visit to an emergency department can involve countless possible services – from initial diagnosis and confirmatory tests to complicated trauma and surgical procedures involving multiple physicians and other providers, depending on an array of factors. Simply put: bundled payments are not appropriate for emergency care and have not been sufficiently tested for widespread adoption for other types of care.

Surprise bills are a direct result of a lack of negotiated contract between the patient's insurer and the hospital and/or physicians that provided their care. We support solutions that focus on arriving at a fair

payment from an insurer to a provider while protecting patients from the consequences that can arise when an insurer lacks adequate contracted providers. In contrast, bundling facility and physician payments in these situations simply allows insurers to transfer to hospitals their responsibility for establishing comprehensive physician networks and managing the associated financial risk.

We should remain focused on taking patients out of the middle of standard negotiations between insurers and providers and protecting them from “surprise bills” when they have not had the opportunity to choose who provides their care, while rejecting unproven proposals that would up-end the foundation of relationships that hold the health care system together.

Sincerely,

American Hospital Association  
American Medical Association  
Federation of American Hospitals