



The Hospital + Healthsystem
Association of Pennsylvania

Leading for Better Health

June 5, 2019

The Honorable Lamar Alexander
Chairman
U.S. Senate Committee on Health, Education
Labor & Pensions
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
U.S. Senate Committee on Health, Education
Labor & Pensions
Washington, DC 20510

Dear Chairman Alexander and Honorable Ranking Member Murray:

On behalf of The Hospital and Healthsystem Association of Pennsylvania (HAP), which represents approximately 240 member institutions, we appreciate the opportunity to provide feedback about the U.S. Senate Health, Education, Labor and Pensions (HELP) Committee's discussion draft entitled the "Lower Health Care Costs Act of 2019." HAP appreciates the committee's efforts to make the health care system more accessible to patients.

The draft legislation presents policy solutions seeking to reduce the cost of what Americans pay for health care by addressing surprise medical bills, targeting prescription drug prices, increasing transparency, improving public health, and facilitating the exchange of health information. Many of these policy proposals will have a significant impact upon hospitals. HAP wishes to associate itself with comprehensive comments provided by the American Hospital Association (AHA) which reflect the national consensus position of the hospital community.

Surprise Balance Billing

Specific to efforts to protect patients from unexpected medical bills, HAP echoes the AHA's commitment to a federal solution consistent with the following guiding principles:

- **Protect the patient:** Any public policy solution should protect patients and remove them from payment negotiations between insurers and providers
- **Ensure patients have access to emergency care:** Any public policy solution should ensure that patients have access to and coverage of emergency care
- **Preserve the role of private negotiation:** Any public policy solution should ensure providers are able to negotiate appropriate payment rates with health plans
- **Educate patients:** Any public policy solution should include an educational component to help patients understand the scope of their health care coverage and how to access their benefits. Insurers, providers, and employers would each have a roles in this initiative
- **Ensure adequate provider networks and greater health plan transparency:** Any public policy solution should include greater oversight of health plan provider networks and the role health plans play in helping patients access in-network care
- **Support state laws that work:** Any public policy solution should take into account the interaction between federal and state laws, and allow for state solutions that are working to remain intact



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HAP supports banning balance billing in defined scenarios where a patient could be confronted with unanticipated health care services from an out-of-network provider and, in those scenarios, holding patients harmless by limiting patient cost-sharing to the in-network amount.

Once the patient is protected from receiving a balance bill and is held to in-network liability, we encourage policymakers to carefully consider imposing on the role of private negotiations and the imposition of notice requirements that may not provide meaningful information to patients but place significant burdens upon hospitals and providers.

In the event that arbitration is considered, the AHA has developed a list of key design elements to help guide thinking surrounding the use of an arbitration policy, as a backstop, to mediate out-of-network claims where private negotiation has not yielded resolution. In practice, it is the expectation that this would primarily pertain to disputes between physicians and health insurers. Those parameters include:

- Provide for an efficient process, such as “baseball-style” arbitration
- Place the responsibility to initiate the request for arbitration with the provider or health insurer, not the patient
- Allow state government appointment of the arbitrator to ensure better understanding of local markets
- Split the cost of arbitration between the two parties in dispute
- Establish fixed timelines to ensure expeditious handling of the process
- Follow established procedures for documentation and claims recommended by the American Arbitration Association to include processes to reduce costs, such as allowing batching of similar claims
- Require that the arbitrators’ decisions be confidential
- Apply arbitration to self-insured Employee Retirement Income Security Act plans

Transparency

Provider and Health Plan Contract Requirements—Within the transparency title, the committee has set forth a series of policies which would impose new provider and health plan contract requirements. Consistent with the position outlined above, HAP urges the committee to carefully consider imposing upon the role of private negotiations, and the potential impact of new contract requirements on the adequacy of comprehensive provider networks.

Government interference in the private negotiation process—either in the form of rate setting or defined contract limitations—has the potential to limit patients’ access to care, and disincentivize the process of reaching contract terms that build out appropriate networks and promote greater value and efficiency.



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In the pursuit of the goal of greater patient understanding and transparency of health care information, HAP urges policymakers to hold insurance companies accountable for their responsibility to maintain adequate networks and avoid any proposal that would erode the comprehensiveness of networks.

Billing Requirements—HAP received specific feedback from a cross-section of our membership on provisions seeking to promote more timely bills. Although well intended, a 30-day timeline to issue a bill to a patient may not be operationally feasible. Pennsylvania hospitals indicate that generally speaking it takes 30–60 days for hospitals to work a bill through the internal process of creating it, coding it, engaging in quality review, and ultimately, sending it. Insurers have 45 days to process the claim and get back to the hospital. Even then, there may still be a back and forth around denials, downgrades, and documentation.

If the ultimate goal is making sure a patient knows what their actual financial obligation will be, it is crucial to allow time for insurance coverage to be factored in. The committee should evaluate a process that would establish a set number of days *from the time the insurer responds to the hospital* to present the patient's bill.

In closing, HAP would like to emphasize that health literacy must be a foundational element of the transparency discussion. Particularly with the growth in high-deductible plans and narrow insurance networks, patients must be better able to understand their health coverage—including which providers are in-network and the scope of their coverage. HAP has been deeply engaged in promoting health literacy through a variety of activities—supporting hospitals in providing assistance to patients during open enrollment periods, providing tools to consumers about navigating their health care through a social media community—Healthy Me PA—and a commitment by Pennsylvania hospitals to provide consumer-focused hospital financial services.

The difficult work of helping patients is happening every day in hospitals across Pennsylvania. We appreciate that much more must be done to elevate patients' understanding of their financial obligations surrounding their care and the ability of patients to navigate the health care system. Both elements are important factors in addressing health care costs. HAP and our members stand ready to partner in those efforts. We strongly encourage policymakers to carefully consider where new requirements or government intervention is necessary and meaningful.

Questions pertaining to the feedback provided above may be directed to [Jeff Bechtel](#), HAP's senior vice president, health economics and policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Stevens Kent', is written over a light blue horizontal line.

Laura Stevens Kent
Vice President, Federal Legislative Advocacy