



The Hospital + Healthsystem
Association of Pennsylvania

Leading for Better Health

October 29, 2019

TO: Members of the House Insurance Committee
FROM: The Hospital and Healthsystem Association of Pennsylvania
SUBJECT: Oppose House Bill 1862 P.N. 2795

This memo expresses the opposition of The Hospital and Healthsystem Association of Pennsylvania (HAP), which represents approximately 240 member hospitals and health systems across the commonwealth, to House Bill 1862, P.N. 2795 as currently introduced. While HAP supports the intent of the legislation to protect patients and hold them harmless from out-of-network billing, the approach adopted by HB 1862 will undermine the ability of providers and insurers to negotiate appropriate reimbursement rates and jeopardize access to care in rural areas of the state.

HAP has adopted the position of the American Hospital Association (AHA) at the national level, which has been developed based on careful evaluation and study of this issue and the impact of various alternative statutory models. Specifically, the AHA's principles provide that hospitals and payers should be left to negotiate reimbursement without government interference (i.e. no final default rate) and argues for an efficient process for resolving payment disputes, among other things. House Bill 1862, P.N. 2795—as currently introduced—is inconsistent with this position, as the bill establishes a default rate for services.

A default rate reimbursement standard requiring the payment of in-network rates would disrupt local market dynamics and incentivize insurers to avoid contracting with providers. It would also not account for the many things that health plans and providers consider when contracting, including: their entire lines of business, volume, quality, partnerships on special programs or initiatives, and other factors.

In addition, rural hospitals are facing high rates of negative operating margins, and a default rate would further reduce reimbursement for these hospitals by placing downward pressure on already low commercial payments. A default rate would also discourage payers from contracting in rural areas, which are already experiencing challenges with network adequacy.

To the extent that an arbitration approach is adopted, arbitration should be designed to determine the appropriateness of payment, rather than simply verify the accuracy of a defined default rate. HAP's study of this issue has found that a baseball style approach, similar to New York, incentivizes early resolution of reimbursement disputes, and promotes negotiation among the parties, without jeopardizing network development. States with this process have very few claims make it to arbitration.

Finally, given the federal attention to the issue, the General Assembly should consider a delay on legislation until a federal proposal is passed. This will enable the state to craft legislation that is built on or around the framework of any federal law, and the surprise balance billing solution will be consistent across payors (ERISA self-insured plans, commercial plans).

HAP continues to support efforts to protect patients from out-of-network billing, and we stand ready to work with you to develop an appropriate solution.