December 12, 2019

The Honorable Nancy Pelosi, Speaker of the House
U.S. House of Representatives
1236 Longworth H.O.B.
Washington, DC 20515

The Honorable Kevin McCarthy, House Republican Leader
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Scalise, House Minority Whip
U.S. House of Representatives
2049 Rayburn H.O.B.
Washington, DC 20515

The Honorable Mitch McConnell, Senate Majority Leader
U.S. Senate
317 Russell Senate Office Building
Washington DC 20510

The Honorable Chuck Schumer, Senate Minority Leader
U.S. Senate
322 Hart Senate Office Building
Washington D.C. 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, Leader Schumer, and Whip Scalise,

The undersigned groups representing millions of taxpayers and consumers around the country urge you reject government rate-setting as a solution to surprise billing. A "surprise bill" occurs when a patient receives out-of-network care — often without their knowledge or consent — and then, weeks or even months later, gets hit with inordinately high bills demanding payment for the cost of care not covered by insurance. Surprise bills are more pervasive because Obamacare narrowed insurance markets resulting in more healthcare being delivered out of network.

According to a University of Chicago study, this issue is extremely pervasive with 57 percent of Americans having been impacted by a surprise medical bill. States such as Arizona and New York have responded this unfolding crisis and it is now time for Congress to act. While it is heartening to see several proposals introduced this past legislative session, not all of the purported solutions would solve this problem — at least not without creating an entirely new set of issues that would impact affordability and access to care for patients.

Congress should avoid any measures that would seek to address surprise medical billing by creating a government-mandated benchmark (i.e. rate-setting) to determine out-of-network rates for physicians. Current legislative proposals that utilize this approach would expand the government's reach into healthcare.

The problem with rate-setting is that in-network rates are inherently discounted during insurer-provider contract negotiations. Using them as the benchmark would artificially suppress rates for physicians providing out-of-network care to the point that enormous financial losses would be shifted to local hospitals and emergency rooms.

Many of these facilities — particularly the ones serving rural, hard-to-reach communities across the nation — are already operating under razor-thin profit margins, if they are even profitable at all. Further compounding their financial woes could exacerbate a growing doctor shortage or lead to an increase in rural provider consolidation or even closure. The net result of any of these outcomes would be fewer options and higher costs for already at-risk patients.

Independent Dispute Resolution (IDR) is a pragmatic solution that leverages a less heavy-handed approach to ending surprise medical billing. Under IDR, both insurers and providers would be able to negotiate out-of-network payments among themselves, ensuring patients are held harmless for any costs above and beyond their standard, in-network and out-of-pocket amounts.

Through a simple, transparent, and online process, each party would be incentivized to submit their most reasonable payment offer for a disputed out-of-network service. Facilitating the IDR process would be an unbiased, third-party mediator who would help determine final payments based on a number of factors that influence the cost of providing clinical care—from geographical location to facility type to complexity to physician experience. That way payments accurately reflect the true, market value of the care provided. Moreover, initial payments to providers at the beginning of the process would help ensure financial stability for at-risk facilities serving rural and underserved communities.

Of the various proposals Congress is considering, IDR is the only truly proven approach. In New York, legislators passed a strong, IDR-focused law to protect patients from surprise medical billing in 2015. Since then, not only have out-of-network billing rates dropped by 34 percent, emergency care costs have actually decreased by 9 percent, saving New Yorkers $400 million. The approach has been so successful that it has earned the support of the medical community as well as both the New York Health Plan Association and The Business Council.

These are the results Congress should seek to replicate on the national level and the only way to do so is by passing legislation that includes the IDR framework as outlined in the STOP Surprise Medical Bills Act introduced by Sens. Bill Cassidy (R-La.) and Michael Bennet (D-Col.). Not only will the IDR process help protect patients from surprise medical billing, it will encourage insurers to negotiate fairly with physicians in order to expand their provider networks rather than continue shrinking them.

This is too important of an issue to not address. If Congress cannot come together to pass strong, IDR-centric legislation this year, it should not rush another proposed "solution" — such as the disastrous benchmarking model — through any must-pass, end-of-the-year legislative package. Americans need to know that their federal legislators are doing all they can to solve this issue once and for all, and that requires a thoughtful approach based on the proven, effective IDR process.

Sincerely,

Taxpayers Protection Alliance
American Consumer Institute
Citizens Against Government Waste
Center for Individual Freedom
Competitive Enterprise Institute
Consumer Action for a Strong Economy
Frontiers of Freedom
Institute for Liberty
National Black Chamber of Commerce
60 Plus Association