

COALITION AGAINST
SURPRISE MEDICAL BILLING

December 15, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives

The Honorable Chuck Schumer
Minority Leader
U.S. Senate

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi and Minority Leader McCarthy:

With millions of Americans still receiving bankrupting surprise medical bills, we appreciate and commend Congress's commitment to pursuing bipartisan reforms that would protect patients and their families from these egregious charges.

Federal legislation is badly needed to correct the substantial market failure and close the loopholes that allow certain out-of-network providers, including a significant number backed by private equity firms, to demand a blank check from patients.¹ Unfortunately, by relying solely on arbitration, this bill rolls out a red carpet to private equity firms and their lawyers with the intent of making health care even more complicated and burdensome. The Congressional Budget Office projected that an arbitration model would add more than \$1 billion in administrative fees alone and would raise costs for taxpayers by \$5 to \$8 billion, as compared to a market-based approach.²³

As Congress considers critical legislation to prevent surprise medical billing, we urge you to prioritize changes to this bill that would lower costs for consumers, employers and taxpayers. Specifically, we request the legislation be modified to:

- Include an interim payment for out-of-network services based on competitively negotiated, market-based payments between health insurance providers and other doctors and specialists in the local market – a proposal supported by an overwhelming majority (nearly 80 percent) of voters.⁴

1 Eileen Applebaum, Rosemary Blatt (September 2019). Center for Economic and Policy Research. Private Equity and Surprise Medical Billing. <http://cepr.net/press-center/press-releases/to-understand-the-surge-of-surprise-medical-bills-get-to-know-private-equity>

² Congressional Budget Office, cost estimate for S. 1895, *Lower Health Care Costs Act* (June 26, 2019): <https://www.cbo.gov/publication/55457>

³ Congressional Budget Office, cost estimate for H.R. 582, *Consumer Protections Against Surprise Medical Bills Act of 2020* (February 10, 2020): <https://www.cbo.gov/publication/56122>

⁴ Morning Consult National Poll, Nov. 20-23: https://stopsurprisebillingnow.com/wp-content/uploads/2020/12/CASMB_MC_Analysis_Final_12.3.2020.pdf

- Include a threshold amount below which claims are not eligible for burdensome arbitration – as one way to limit private-equity firms abusing arbitration.
- Include an unequivocal prohibition on providers submitting billed charges – which studies have shown can be over 2600% of what Medicare pays for similar services.⁵

These changes are crucial to ensuring private equity-backed and out-of-network specialists cannot exploit loopholes and continue to abuse the system at the expense of patients. These concerns are not theoretical. States that have implemented similar arbitration models have seen private equity firms and out-of-network providers leverage their market power through the mediation process. For example, in Texas, 83% of all arbitration requests are coming from three large, private equity-backed billing companies that promote an out-of-network profit model. New York's reliance on billed charges has increased costs – specifically, Brookings found that New York's law increased allowed amounts paid to emergency physicians by an estimated 16.5%.

Arbitration is not a solution to the surprise billing crisis. It's a gift to private equity firms that have pushed arbitration from the very beginning in order to preserve their business model at the expense of American consumers.

Now, more than ever, as we forge ahead during a global pandemic, Americans need health care costs to decrease – and these changes we have outlined are critical to saving billions of dollars for employers, patients, and taxpayers. We urge you to strengthen this bill for millions of Americans by incorporating the changes we have proposed.

Sincerely,

The Coalition Against Surprise Medical Billing

⁵ Zack Cooper et al., "Out-Of-Network Billing And Negotiated Payments For Hospital-Based Physicians," *Health Affairs* 39, no. 1 (January 2020): pp. 24-32, <https://doi.org/10.1377/hlthaff.2019.00507>.