Illinois Health and Hospital Association

August 7, 2019

Urge Members of Congress to Reject Setting Rates for Hospitals in Federal Law

Members of Congress are in their home districts for the annual August recess, and it is important they hear from hospitals and health systems about how rate-setting provisions included in surprise billing legislation would tip the scales for insurance companies, reduce critical hospital resources and lead to more narrow coverage networks for patients. While IHA supports patient protections included in the current proposals, we believe that once patients are protected from surprise medical bills by a ban on balance billing, providers and health plans should be permitted to negotiate payment rates for services.

ACTION REQUESTED: Meet with your Representatives and Senators, call, email and/or send a letter (for template letter - *click here*). Tell him/her why a government-mandated rate, which would become a default rate for additional services, could threaten already-limited hospital resources and create a disincentive for health plans to establish adequate coverage networks. (*To look up contact information for your U.S. Representative and Senators, click here and fill in your local address in the "Find Politicians" box.*)

BACKGROUND:
The U.S. Senate Health, Education, Labor and Pensions (HELP) Committee and the House Energy and Commerce (E&C) Committee recently passed separate legislation that seeks to protect patients from surprise medical bills. Although the Senate HELP bill, the *Lower Health Care Costs Act* (S. 1895) and the House E&C Committee bill, the *No Surprises Act* (H.R. 2328) are substantially different, both use a rate-setting or "benchmark" approach to determine the payment amount for certain out-of-network claims. The benchmark is defined as the median in-network rate in a geographic area.

The Senate hopes to advance S. 1895 on the floor when it returns in early September, while two additional House committees may take up the issue prior to floor consideration: the Ways and Means and Education and Labor Committees. If your hospital is represented by one of the members of these committees, it is especially urgent they hear from you:

- Rep. Danny Davis (IL-7), Ways and Means Committee
- Rep. Darin LaHood (IL-18), Ways and Means Committee
- Rep. Bradley Schneider (IL-10), Ways and Means Committee
- Rep. Lauren Underwood (IL-14), Education and Labor Committee

Federal surprise billing legislation would apply to health plans regulated under the Employee Retirement Income Security Act (ERISA) (e.g., private-sector employer-sponsored health plans), while state-regulated plans would continue to be subject to Illinois law, which bans the practice of balance billing by certain practitioners and use "baseball-style" arbitration to resolve payment disputes between health plans and providers.

Suggested talking points:

- Illinois hospitals believe patients should be protected from surprise medical bills.
- We support federal legislation that would ban the practice of "balance billing" for emergency services, or for services obtained in an in-network facility thatcould reasonably have been assumed to be in-network.
- Once patients are protected by a ban on balance billing, the standard process of negotiation between providers and health

plans should be permitted to continue.

- We urge Congress look to successful state-level laws — such as those in Illinois — as a model for federal legislation.
- Arbitration is the independent dispute resolution process used in Illinois. This approach allows for more market considerations than a benchmark rate and has been shown to encourage network participation and incentivize early resolution of any reimbursement disputes.
- Illinois hospitals strongly oppose rate-setting proposals, which would establish an arbitrary fixed rate for services. These rates would become a “ceiling” for healthcare pricing – not a “floor” thereby reducing hospital resources and removing the incentive for insurers to create adequate coverage networks.
- Over half of the reimbursement rates paid to Illinois hospitals are set in law by the Medicare and Medicaid programs, and fall short of covering the cost of care. Currently, 42% of Illinois hospitals are operating on negative or extremely thin margins. IHA is concerned that expanding government rate-setting to the private sector could lead to an immediate, harmful reduction in hospital resources, which would threaten access to care.
