HANYS®
Always There for Healthcare

Marie B. Grause, RN, JD • President

Headquarters
One Empire Drive, Rensselaer, NY 12144
518.431.7600

Washington, DC Office
499 South Capitol Street SW, Suite 410
Washington, D.C. 20003
202.488.1272

April 2, 2019

The Honorable Joseph Morelle
U.S. House of Representatives
1317 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Morelle:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, is pleased to have the opportunity to comment on the success of the Out-of-Network Consumer Protection Law in New York state.

As HANYS and our members worked with lawmakers in New York to address the challenge of surprise billing, HANYS remained committed to one core principle: protect patients and insulate them from any negotiation between insurers and providers. This principle was a key to the successful passage and implementation of New York's groundbreaking Out-of-Network Consumer Protection Law, which took effect on March 31, 2015.

The Out-of-Network Consumer Protection Law protects New Yorkers from financial exposure from surprise bills and emergency services. It requires hospitals, clinics and other practitioners to post information relating to plan participation and fees, and it mandates that managed care organizations and other network plans disclose details of their networks and out-of-network payment policies. The law applies to all New York state-regulated insurance products, including health maintenance organizations, preferred provider organizations, exclusive provider organizations, municipal health benefit plans, student health plans and Medicaid managed care plans. However, it does not apply to Employee Retirement Income Security Act preempted, Medicare Advantage and self-insured health plans.

Among the provisions of the law that have been successfully implemented in New York is an independent dispute resolution process for charges for services that would be considered a surprise bill under the law, and for emergency services.

During the debate on the Out-of-Network Consumer Protection Law, HANYS supported a dispute resolution process rather than setting a flat rate for services for several reasons. Among the concerns with setting a rate for payment in these circumstances is that it would encourage the expansion of narrow networks throughout the state and would strip the hospital of any ability to negotiate contracts with insurers in the long term. In a sense, it puts

all control of payment back in the hands of private insurance companies, at the expense of New York's nonprofit hospitals.

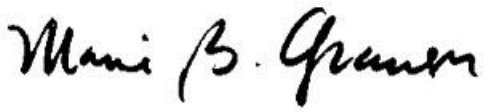
The result of this policy has been that very few cases of surprise bills and emergency bills even get to the arbitration stage. According to the New York State Department of Finance, in 2017, only 645 claims for emergency services were arbitrated by an Independent Dispute Resolution Entity. Of those 645 cases, 203 disputed claims were ruled in favor of the health plan, 61 were ruled in favor of the provider, 102 were a split decision and 170 were considered ineligible.

In the case of non-emergency surprise bills, only 451 claims were considered by an Independent Dispute Resolution Entity. Of those claims, 141 were ruled in favor of the provider, 49 for the health plan, 75 were a split decision and 119 claims were ineligible.

The data demonstrate that the dispute resolution process is rarely used and more importantly, that New Yorkers are not burdened with overwhelming out-of-network surprise bills. As Congress looks to curb the financial and emotional stress caused by surprise bills at the national level, HANYS urges lawmakers to reject any proposal that would set base payments as a means to resolve payment disputes between insurers and providers. Based on the New York experience, it is clear that this policy is not necessary and that it could only lead to severe unintended consequences.

HANYS also urges Congress to ensure that any national framework does not impede the great strides made in New York.

Sincerely,



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President