

February 7, 2020

The Honorable Richard Neal  
Chairman, Ways & Means Committee  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Kevin Brady  
Ranking Member, Ways & Means Committee  
1011 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Neal and Ranking Member Brady:

As organizations representing millions of American workers and their employers, we have seen firsthand the harmful consequences of surprise medical billing. When out-of-network providers, including many who are backed by private equity firms, continue to charge prices that far exceed negotiated rates for the same care in the same market, it's imperative that Congress take action to protect consumers from these extreme costs.<sup>1</sup>

By relying solely on arbitration as the presumptive fix for these charges, the Committee creates a dangerous incentive for out-of-network providers to abuse the system at the expense of patients and employers who shoulder the vast amount of these costs. As we have seen in New York, out-of-network providers have learned how to "game the system," raising premium costs for consumers and employees under an arbitration model.<sup>2</sup>

To effectively address the root cause of this affordability crisis, this Committee and Congress must establish a process by which all patients and consumers can benefit from local, fairly negotiated, market-based rates. According to the Congressional Budget Office, linking out-of-network reimbursement to the median in-network rate would save consumers and taxpayers nearly \$25 billion over the next ten years.

Employers urge this Committee and its members to avoid resorting to policies that will impose greater bureaucracy, lawyers and cost on consumers. Arbitration is not a viable solution to the surprise billing challenges facing consumers; it is a policy that will continually undermine our broader goals of affordability and financial security while leaving patients to the whims of private equity firms and out-of-network providers. We are committed to working with all members of Congress and this Committee to ensure that does not become a reality.

American Benefits Council  
Business Group on Health  
Council of Insurance Agents & Brokers  
The ERISA Industry Committee  
HR Policy Association  
National Alliance of Healthcare Purchaser  
Coalitions

National Association of Health Underwriters  
National Retail Federation  
Pacific Business Group on Health  
Public Sector HealthCare Roundtable  
Self-Insurance Institute of America  
UNITE HERE

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<sup>1</sup> Cooper, Zach; Nguyen, Hao; Shekita, Nathan; Morton, Fiona Scott, "Out-Of-Network Billing And Negotiated Payments For Hospital-Based Physicians" December 16, 2019. <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2019.00507>

<sup>2</sup> National Public Radio, "To End Surprise Medical Bills, New York Tried Arbitration. Health Care Costs Went Up," Nov. 5, 2019. <https://www.npr.org/sections/health-shots/2019/11/05/776185873/to-end-surprise-medical-bills-new-york-tried-arbitration-health-care-costs-went->