

February 28, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
H-232 Capitol Building
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
H-204 Capitol Building
Washington, DC 20515

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

On behalf of the membership of the National Association of Insurance Commissioners¹, we write to urge you to move swiftly to enact legislation to protect Americans from surprise medical bills. We are encouraged by the work of committees in each of your chambers and believe that a bipartisan, bicameral compromise is within reach. The bills the committees have approved can and should be merged into legislation that helps to maintain affordable and accessible insurance markets while balancing the interests of consumers, insurers, and health care providers.

Our top priority in addressing surprise medical bills is to remove consumers from billing disputes between insurers and providers, in a manner that does not raise health care costs. We're gratified that the legislation advanced by your chambers' committees would achieve that goal. Our other priorities include protecting state surprise bill laws and regulations from federal preemption and applying surprise bill protections to consumers served by air ambulances. Much of the work of the committees supports these goals and we ask you to help guide final legislation so that it delivers on each of these fronts.

All of the legislation that has advanced through the committees would allow the payment amount for out-of-network services to be set under state law when there is a state law provision applicable to an item or service. This preserves states' authority to continue the existing surprise bill solutions they have developed through their own discussion and debate. It also allows states to make adjustments in the future through state law should they determine that the federal solution is not the optimal one for their state. We appreciate that this approach applies federal policy where it is needed—to self-funded ERISA plans and others not covered by state regulation—while protecting states' authority to regulate insured health plans.

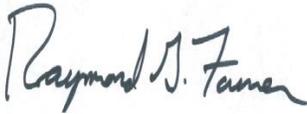
We also strongly support federal legislative action in the area of air ambulances. States have been unable to implement meaningful legislation to protect consumers from surprise air ambulance bills because certain courts have interpreted the federal Airline Deregulation Act of 1978 (ADA) to preempt state regulation of air ambulance providers. As dozens of state regulators wrote to House and Senate leaders last fall, "prohibiting balance bills and

¹ Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

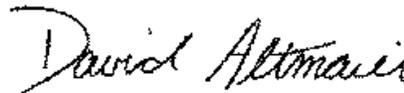
establishing a process for determining out-of-network payment amounts would be a prudent, fair, and equitable way to resolve the crisis consumers are facing at the hands of a few bad actors in the air ambulance industry.” We continue to reject the argument that ending surprise billing will leave rural Americans without access to air ambulance services. Rural residents are at risk for excessive surprise bills under the status quo and deserve protection that can only be provided by federal legislation. Committees in both the House and Senate have extended surprise bill protections to air ambulance services and we request your support in making this critical provision a part of the final bill in both chambers.

As you work to finalize legislation on surprise bills, we urge you to maintain these key priorities—remove consumers from the middle, preserve state authority, and include air ambulances as covered providers. Consumers need relief from surprise bills as quickly as possible, so we support quick action by Congress and offer any assistance state regulators can provide to move it over the finish line.

Sincerely,



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Director
South Carolina Department of Insurance



David Altmaier
NAIC President-Elect
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Dean L. Cameron
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