

February 18, 2020

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education, Labor,
and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education, Labor,
and Pensions
154 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

On behalf of the membership of the National Association of Insurance Commissioners¹, we extend our thanks for your efforts to protect consumers from surprise medical bills. As insurance regulators, we recognize the challenge of maintaining affordable and accessible insurance markets and the importance of balancing the interests of consumers, insurers, and health care providers. We applaud you for taking on this challenge and working to find the right balance that serves all stakeholders.

Our top priority in addressing surprise medical bills is to get consumers out of the middle of billing disputes. We're gratified that the legislation advanced by your committee 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. The bicameral compromise your committee reached with the House Energy and Commerce Committee delivers on each of these fronts.

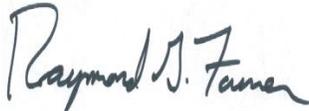
The legislation your committee advanced, as well as the compromise, would allow the payment amount for out-of-network services to be set under state law when a state prohibition on balance billing applies to an item or service. This preserves states' authority to continue the existing surprise bill solutions 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 the legislation applies federal policy where it is needed—to ERISA plans and others not covered by state regulation—while protecting states' authority to regulate insured health plans.

We also 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 you in September, "prohibiting balance bills and 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. We thank you for applying surprise bill protections to air ambulance services in the compromise you reached with members of the House Energy and Commerce Committee.

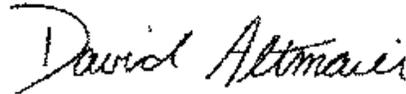
¹ Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, 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.

As you work with other committees in the House and Senate to advance 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,



Raymond G. Farmer
NAIC President
Director
South Carolina Department of Insurance



David Altmaier
NAIC President-Elect
Commissioner
Florida Office of Insurance Regulation



Dean L. Cameron
NAIC Vice President
Director
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Chlora Lindley-Myers
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Michael F. Consedine
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Commissioners