



The American College of
Obstetricians and Gynecologists
WOMEN'S HEALTH CARE PHYSICIANS

Chief Executive Officer
Maureen G. Phipps, MD, MPH, FACOG

December 2, 2019

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-222 U.S. Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204 U.S. Capitol
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

On behalf of the American College of Obstetricians and Gynecologists (ACOG), representing more than 58,000 physicians and partners dedicated to advancing women's health, I am writing to urge you to include a fair and equitable independent dispute resolution (IDR) process in any surprise billing legislation that is considered by Congress.

It is imperative that patients are protected, and held harmless, from unanticipated medical bills from out-of-network physicians or other providers as a result of a coverage gap or without their knowledge. Our patients are directly impacted by surprise medical bills when they receive expected care, such as childbirth or surgery, from a care team that includes an out-of-network physician. Patients typically see in-network obstetrician-gynecologists (ob-gyns) and give birth at in-network hospitals, but may receive care from an out-of-network anesthesiologist or other provider whom they are not able to select. A review of 63,630 medical claims for women with employee-sponsored health insurance who gave birth twice between 2007 and 2014 found about one in 10 received a surprise out-of-network bill with their first delivery. Our patients should be able to focus on their and their children's health and well-being rather than worrying about unexpected out-of-pocket costs.

It is equally important that any legislative solution treats physicians equitably. While we were pleased an IDR process was added to Title IV of H.R. 2328, the "No Surprises Act," the current language is insufficient to safeguard patients or protect physicians who have no role in surprise bills. ACOG is particularly concerned that legislation imposing median in-network rates with a weak IDR process, or none at all, will result in the narrowing of networks as in-network rates decrease. According to the Congressional Budget Office, a significant portion of the estimated savings from setting a median in-network rate is due to reductions in **in-network payment rates**. In-network providers, including ob-gyns, who have not contributed to this problem will pay the price under a benchmark payment rate. This will result in significant patient access problems, which may be particularly acute for women seeking obstetric and gynecological care. Many of our members are physicians who remain in independent practices, particularly in rural areas, and they will not be able to withstand significant reductions in in-network rates.

ACOG urges Congress to continue to improve the "No Surprises Act" or other legislation on surprise medical bills that may come before the full House. A system that is equitable for patients and physicians should include an upfront, commercially reasonable payment for out-of-network services and fair and

efficient IDR process. Implemented correctly, this will maintain insurance networks that protect patient access. Specifically, ACOG believes an IDR process must have the following characteristics:

- A financial threshold to trigger the IDR process that is based on the distribution and range of real-world claims and payments. The \$1,250 threshold in the “No Surprises Act” is too high to protect ob-gyns, and therefore must be lowered to meet this criterion.
- Physicians should be allowed to batch claims that involve identical plans and providers for similar procedures that occur within a reasonable timeframe. This will ensure all physicians can benefit from the IDR process.
- The upfront payment of a median in-network rate should be changed to reflect a commercially reasonable rate that reflects local charges, as identified in an independent and verifiable claims database. Insurer databases cannot be relied upon to set these rates.

ACOG looks forward to working with you to find a solution that is equitable to ob-gyns and other physicians and provides patients the protection they deserve. Should you have any questions or require additional information, please contact Tatiana Calderón, Federal Affairs Manager, at tcalderon@acog.org or (202) 863-2505.

Sincerely,



Maureen G. Phipps, MD, MPH, FACOG
Chief Executive Officer

cc: Chairman Frank Pallone, Energy & Commerce Committee
Ranking Member Greg Walden, Energy & Commerce Committee
Chairman Richard Neal, Ways & Means Committee
Ranking Member Kevin Brady, Ways & Means Committee
Chairman Bobby Scott, Education & Labor Committee
Ranking Member Virginia Scott, Education & Labor Committee