June 4, 2019

The Honorable Lloyd Doggett  
Chairman  
Subcommittee on Health  
Ways and Means Committee  
House of Representatives  
Washington, DC  20515

The Honorable Devin Nunes  
Ranking Member  
Subcommittee on Health  
Ways and Means Committee  
House of Representatives  
Washington, DC  20515

RE: Protecting Patients from Surprise Medical Bills

Dear Chairman Doggett and Ranking Member Nunes:

AARP, on behalf of our nearly 38 million members and all older Americans nationwide, would like to thank you for holding a hearing on May 21 to examine the issue of surprise medical billing. AARP strongly supports your efforts to protect consumers from expensive surprise medical bills when they believe they are appropriately seeking care from in-network providers (facilities or professionals) or during an emergency.

Cost is often a key determinate as consumers decide what care to seek, as well as where to receive it. Unfortunately, there are times when an individual makes every effort to obtain affordable care under their insurance coverage, but is surprised to receive a bill from a non-network provider whom they did not choose or were not given the opportunity to choose. As you pursue solutions and develop legislation, we urge you to prioritize the consumer experience and follow these three principles:

1. Consumers must be held harmless

Individual out-of-pocket cost-sharing must be limited to the in-network amount when a consumer receives emergency care, chooses to receive care at an in-network facility, or has not elected to receive care from a non-network provider. This applies to any copay, coinsurance, or deductible under the individual’s insurance coverage. Disputes about payment, once the in-network coverage obligation has been met, are between the provider and the payer. The consumer has fulfilled their responsibility and should not be subject to further bills or penalties. Furthermore, notifying an individual at an in-network
facility that a provider or service is out-of-network does not provide sufficient protection. Notification may remove the “surprise”, but it is not a substitute for meaningful choice.

2. Protections must apply to all sites of care and providers of care

An individual seeking care in a medical emergency should not be expected to research provider directories or check network status before calling an ambulance or going to the nearest emergency room. Likewise, we must not penalize consumers for making good choices, or when they are given no choice at all. An individual who does their due diligence, and seeks care from an in-network facility or an in-network provider’s office, should not be saddled with a bill from a separate provider or lab for which they had no choice. Once at the facility or doctor’s office, the discretion is with the provider – not the consumer – to consult specialists, order tests, and process images.

3. Protections must apply to all payers

Surprise balance billing must be prohibited across all payers – individual/small market, large employer, self-insured, and ERISA plans. This issue impacts all consumers, regardless of their type of coverage. While states should be allowed to have more protective laws, a federal standard or baseline is necessary to prevent loopholes and exceptions.

We also urge you to not overlook the Medicare program as you consider ways to protect consumers from surprise medical bills. There is a glaring absence of consumer protection in Medicare regarding the use of “observation status”. Medicare beneficiaries who enter the hospital, spend multiple nights, and receive the same care as inpatients are being denied coverage for subsequent skilled nursing facility (SNF) care because they were classified as an outpatient under observation. We urge you to protect beneficiaries from paying possibly thousands of dollars in out-of-pocket costs by counting the time a Medicare beneficiary spends in observation toward the three-day stay requirement for Medicare coverage of SNF care.

Thank you again for your bipartisan leadership on this issue. We appreciate the opportunity to provide feedback, and look forward to working with you to protect consumers and make health care more affordable. If you have any questions, please contact me, or have your staff contact Andrew Scholnick of our Government Affairs team at ascholnick@aarp.org or 202-434-3770.

Sincerely,

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs