

## Addressing Surprise Medical Bills

### Protect Patients from Surprise Bills

Establish a Fair Process for Insurers & Physicians to Resolve Disputes

Preserve Patient Access to In-Network Physicians and Emergency Care

### CMA urges Congress to include the following in any legislative solution:

- + **Protect patients** from surprise medical bills when their ERISA plan fails to provide them with an adequate network of physicians.
- + **Insurers must provide adequate physician networks** to meet patients' medical needs, including emergency physicians, on-call surgeons and anesthesiologists who will be there in emergencies.
- + **A fair baseball dispute resolution (IDR) process** when physicians forego their ability to balance bill. Instead of government rate-setting for private insurance, there should be an expeditious appeals process that incentivizes insurers and physicians to contract and resolve disputes.
- + **Commercially reasonable payment rates that include contract rates** previously agreed to by a physician and insurer ( as of 12/17/adjusted for inflation) should be considered in the IDR process to guide out-of-network payment, among other criteria. Rates should come from an independent, transparent database. **Median contract payment rates are inadequate** and incentivized California insurers to cancel contracts or reduce rates to the median, jeopardizing access to in-network and emergency care.
- + **Patient access** to in-network physicians, emergency physicians, and on-call specialists must be preserved.

**W&M, Ed Labor, E&C, Senate HELP Bills have a Median Contracted Rate Payment Benchmark California Adopted an Average Contracted Rate Benchmark and it has Destablized Health Care Avoid the Unintended Consequences of California's 2016 Surprise Billing law (AB 72)**

California's AB 72 established an interim payment rate at the greater of 125% of Medicare or the average contracted rate for out-of-network care provided by non-ER hospital-based physicians. A separate law dictates that non-contracting emergency physicians are required to be paid their billed charges. While AB 72 successfully protected patients from surprise medical bills, the rest of the law is not working. Upon passage of AB 72, insurers suddenly cancelled 20 year-old contracts with hundreds of physicians that care for thousands of patients. Insurers also imposed unprecedented 40% payment cuts that left physicians questioning whether they can maintain the same level of quality and access to care. Many are leaving California. AB 72 gave powerful insurers even greater market leverage by establishing inadequate benchmark payment rates. Based on the documented physician reports to CMA, there are fewer physicians contracting with insurers which is jeopardizing access to in-network physicians and on-call emergency specialty services. Rural and underserved community emergency departments, hospitals, and physicians that depend on reasonable private insurance rates to balance the preponderance of low government health care payments will be forced to reduce services which will increase provider shortages and exacerbate patient access to care challenges.

## Surprise Medical Billing: The Unintended Consequences of California's Law (AB 72)

-Ten large anesthesiology groups reported sudden contract cancellations, first-time 20-40% payment cuts, and insurer's refusal to initiate new contracts. Radiology and Pathology received cuts as well.

-For instance, Anthem cut OB- Anesthesia rates by more than 20% for labor & delivery and C-Sections. This forced many physicians out-of-network and subject to the low AB 72 payment rate. Under these conditions, few anesthesiologists can afford to staff emergency department call in the middle of the night to help deliver babies.

-Two anesthesiology groups recently closed. One group was finally bailed out by the local hospital in order to keep their community-based physicians. But this solution is not sustainable.

-Anesthesiologists are leaving CA and young physicians are choosing to practice in other states. Anesthesiology residents are leaving CA after they complete their training which is unprecedented.

### California Regulator Reports

-**Physicians have lost every single arbitration case in CA.** Arbiters disregard the more complex physician information and simply assign the AB 72 interim payment rate in the law. It has become the defacto payment rate for out-of-network and in-network hospital-based physicians.

-Regulators report a 48% increase in patient access complaints since the passage of AB 72.

-Regulators report a 25% error rate in Anthem and Blue Shield's provider networks.

-CMA found zero anesthesiologists at in-network facilities through certain medical groups in multiple regions of CA.

### Independent Studies

-RAND reported in the *Journal of Managed Care* that AB 72 is having a negative impact on physician specialty networks.

-RAND also reported that AB 72 is accelerating consolidation in health care markets which drives up costs.

### CMA Physician Survey Results

-94% of physician respondents have experienced new contracting difficulties since AB 72.

-88% of physician respondents said AB 72 allowed insurers to shrink physician networks, decreasing patient access to in-network physicians in their community.

-80% of physicians said AB 72 reduced the availability of emergency and on-call physician specialists who respond to emergencies.

-91% of physicians agree that the Congressional proposals modeled after AB 72 will accelerate consolidation of independent physician practices which can drive up costs.

**PROTECT PATIENTS, ESTABLISH A FAIR PROCESS WITH FAIR RATES, PRESERVE ACCESS TO CARE**