



**CALIFORNIA  
HOSPITAL  
ASSOCIATION**

*Providing Leadership in  
Health Policy and Advocacy*

January 28, 2010

Susan Nolan  
Executive Director  
National Conference of Insurance Legislators (NCOIL)  
385 Jordan Road  
Troy, NY 12180

**SUBJECT: Draft NCOIL Balance Billing Proposal**

Dear Ms. Nolan:

The California Hospital Association (CHA), representing 400 hospitals and health care systems, welcomes the opportunity to comment on the NCOIL Proposed Draft Model – Healthcare Balance Billing Disclosure. We think that a basic principle should be kept in mind as this proposal develops -- a consumer's health benefit plan is in the best position to advise and arrange for needed care in order for consumers to maximize their benefits. It's important to note that insurers consciously design products to give consumers the choice to either seek care from a contracted or in-network provider thereby lessening their financial obligations for the care rendered or from a non-contracted or out-of-network provider, which results in higher cost-sharing for the consumer. To date, consumers have expressed a strong preference for these benefit designs as evidenced by their popularity.

This proposal places disclosure requirements on facilities that we think are misplaced. We reiterate that health benefit plans are in the best position to inform their customers of their choices and disclose to them the financial consequences of choosing to seek care from a non-contracted or out-of-network health care provider.

Moreover, we are perplexed that the drafters did not take into account markets like California where consumers seek care at non-contracted or out-of-network facilities. The model assumes that consumers seek care only at contracted facilities, which is often not the case.

This proposal does not differentiate between emergency and non-emergency services. If there are to be disclosure requirements, we think that such requirements should apply only to non-emergency services. Furthermore, we think that the obligation to disclose should fall solely on health benefit plans. We would point out that in states like California, where hospitals cannot employ physicians, the health benefit plan must contract separately with hospitals and physicians. As such, the hospital cannot be expected to have knowledge of the contractual relationships that health benefit plans have with physicians.

To the extent that consumers find that they do not have a choice of a contracted or in-network provider for non-emergency care and services, this measure should place an affirmative obligation on health benefit plans to pay for the care and services provided by a non-contracting provider. If this is a major problem, state regulatory agencies that oversee the business practices of health benefit plans should ensure that they have adequate provider networks to accommodate the needs of their customers.

Thank you for allowing us to comment on this proposal. Should you have any questions or need additional information, please do not hesitate to contact us. We look forward to working with you on the development of this model statute.

Sincerely,

A handwritten signature in black ink that reads "David van der Griff". The signature is written in a cursive, flowing style.

David van der Griff  
Legislative Advocate

DVG:kw

cc: Ellen A. Pryga, American Hospital Association