Dear Commissioner Miller,

I appreciate the opportunity to comment on this important pending legislation. Having been a patient's spouse a couple of years ago, I can attest to the problem of unexpected hospital charges. Also being a physician, I can attest to potential problems with the proposed legislation and its potential unintended consequences. Therefore, I ask that you study my comments carefully and without bias.

First, it is critically important to recognize that an insurance contract is between a carrier and its member (patient), and that the physician/provider who is out of the insurance network has no legally-binding contract with the insurer/carrier.

Second, equally important to realize that the main reason for carriers to force patients to seek care from in-network hospitals, is to cut costs, and nothing else. Similarly, the member/patient's decision to purchase a limited-network insurance policy is also for financial reasons (reduce premium or out-of-pocket costs).

Third, in a true emergency (such as major accident or trauma or a heart attack), an EMS vehicle will bring such a patient to the nearest Emergency Room, which may or may not be an in-network hospital. So the premise of this legislation does not apply in such a circumstance.

So this leaves us with essentially pre-planned hospitalizations for mostly elective services such as labor & delivery or surgery/procedures, in which case the patient would have pre-arranged hospitalization in an in-network facility. In such a situation, it behooves the patient to ensure that all providers necessary to carry out the planned procedure are in-network. If during such a hospitalization, a service is provided by a physician who is not in network, it should be sufficient if such physician informs the patient ahead of providing such a service that he/she is not in-network, unless this service is provided in dire emergent situation (classified as above).

It is important to remember that the main reasons physicians/other providers decide not to contract with certain insurance plans are undervaluation of services, hassle factors, interference in medical decision-making and poor business practices by the insurance carrier. So, when such a physician provides care to a patient, there is a direct service & payment relationship between the two parties, and the 3rd party (insurance carrier) is not in the picture. So, such a bill being submitted to a carrier is purely a courtesy of the physician involved, and payment is not subject to any payment policy of the carrier.

Therefore, when the state government dictates by way of legislation, that such physicians should accept what a 3rd or 4th party (insurer & Arbitrator) decides is fair value for a service provided, it is seriously infringing on the individual liberty of the physician. I cannot believe this is the intention of this proposal.

Not only is there no appreciation of the service provided by the physician, but with this legislation, he/she is forced to spend time, effort and money to engage with a new

bureaucracy, just to collect what is legitimately owed to him/her. What will happen is that patients will lose their access to high quality physicians who do not wish to be bullied by the insurers. The Resolution Organization will have no takers because good physicians who value their healing arts, will not waste their time dealing with it. Consequently, patients will be forced to access only those physicians who don't value their care and accept the poor payments from 3rd parties, whose only goal is to pay the minimum required fee. In case it is not clear by now, the proposed legislation will leave patients with fewer choices when it comes to accessing quality care.

Finally, I would suggest removing the concept of payment as a % of Medicare for at least two reasons - one, because Medicare is one of the lowest paying plans (same rates as in 1999) and second, because Medicare is jettisoning the fee-for-service payment model in 2 years. So there will not be a clear dollar value to use, very soon.

In summary, I believe that this proposed legislation is a clear violation of physicians' individual liberty. But more importantly, it does not benefit the patient and may in fact restrict a patient's medical care choices. Net-net, this legislation will end up restricting the freedoms of both patient and their physicians. The obvious solution is to use your office to get rid of insurance carriers' restrictive network practices & unilateral price-fixing and to encourage financial transparency in the delivery of non-emergent medical services. This will help make patients savvy utilizers of medical care, make physicians focus on providing the best-value care to patients and nudge insurers to offer the best-value insurance product they can offer, a win-win-win situation.

I hope you will consider my comments seriously and move in the direction of win-win-win.

Sincerely,

Arvind R. Cavale, MD, FACE
Comprehensive Diabetes & Endocrinology & Endocrine Clinical Research, LLC
Principal Investigator, DCRI & WCT
Clinical Preceptor, La Salle University
4 Rose Street
Feasterville, PA 19053
Tel: 215 953 6804
Fax: 215 953 6635