



COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT  
HARRISBURG

THE COMMISSIONER

July 13, 2017

The Honorable Bill Shuster  
2079 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Shuster,

I am writing to thank you for supporting and moving forward an amendment to H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act, that would establish an advisory committee to make recommendations for a rulemaking to require air ambulance operators to clearly disclose charges for air transportation services separately from charges for non-air transportation medical services provided while onboard an aircraft, and to provide other consumer protections for customers of air ambulance operators.

While I believe this amendment is a step forward, I urge you also to consider including language that would more comprehensively help consumers who use air ambulance services. As the U.S. House of Representatives next week is scheduled to consider H.R. 2997, I request including language in your Manager's Amendment similar to S. 471, the Isla Rose Life Flight Act. This legislative text would allow states to regulate air ambulance services, and help consumers who are overwhelmed by the huge bills they receive after using air ambulance services.

As I wrote to Senators Casey and Toomey on April 18, 2017 urging their support for S. 471, I have heard from consumers as well as state legislators about the problem of air ambulances not affiliated with a hospital, and not in an insurer's network. Air ambulances, by their very nature, are transporting a patient in an emergency situation. The consumer has no choice over whether they are transported by air ambulance, or what air ambulance service is used to get them or their loved one to a facility that can provide the care needed as quickly as possible. Consumers are often faced with a balance bill from the air ambulance service, with these bills typically running into the tens of thousands of dollars. These bills can be financially devastating for consumers and their families, who are already often dealing with catastrophic events and significant health care needs.

For example, I heard from a patient involved in a car crash that rendered this person unconscious. The individual, while unconscious, was flown by air ambulance to a trauma center. His insurer is refusing to pay, claiming the situation was "not life threatening", and leaving this person, who obviously had no say in this transport, with a \$40,000 bill. In another situation, parents wrote to me saying their son suddenly became ill, and was diagnosed with a large brain

tumor. He was life-flighted to another hospital and underwent surgery. The parents were told had they arrived a few hours later their son would have died. The couple's insurer paid \$10,675 of a \$47,759 bill, stating the air ambulance service is out-of-network, leaving the parents with a \$37,083 balance bill.

In Pennsylvania, we are currently working in a bipartisan manner toward a solution to protect consumers from surprise balance bills from facilities and health care providers. However, even if this legislation is enacted, it will not address the issue of air ambulance costs: states cannot now regulate balance billed amounts from air ambulances due to preemption by the federal Airline Deregulation Act (ADA) of 1978, which prohibits states from regulating airline rates. This prohibition extends to both fixed wing planes and helicopters. In March 2016, a federal district judge struck down North Dakota's air ambulance regulations due to the preemption of the ADA, *Valley Med Flight, Inc. v. Dwelle, et al.*, No. 1:15-cv-070 (D.N.D. Mar. 21, 2016).

Thus, federal legislation is needed to give states the authority to address this issue and allow my Department and our state legislature to protect our, and your, constituents in Pennsylvania. This bill does not impact airlines or other air services, nor does it set federal rates for air ambulances or add new federal regulations.

We must find a way to protect consumers from experiencing these crippling bills at such vulnerable times in their lives. As we work to contain the cost of health care, air ambulances must not be overlooked. These vital services save lives, but must be affordable to the consumers who need them.

I hope you will consider including this important legislative text in your Manager's Amendment to H.R. 2997 when it is on the U.S. House floor next week. Please do not hesitate to reach out to me or my Department if we can be helpful in regard to this issue or any other insurance issues under your consideration.

Sincerely,



Teresa D. Miller,  
Pennsylvania Insurance Commissioner