
Sneed Law Firm, LLC

Memorandum

To: The Honorable Dan Hawkins, Chair
House Health and Human Services Committee

From: William W. Sneed, Retained Counsel
America's Health Insurance Plans

Date: February 14, 2018

RE: H.B. 2575

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent America's Health Insurance Plans ("AHIP"). AHIP is the national trade association representing the health insurance industry. AHIP members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual and small group insurance markets, and public programs such as Medicare and Medicaid. Members offer a broad range of health insurance products in the commerce marketplace and have also demonstrated a strong commitment to participation in public programs throughout the country. Please accept this memorandum as my client's opposition to H.B. 2575.

"Right to Shop" programs, which are touted as a way to allow consumers to take control of their health care, lowering costs and increasing options, would not achieve what they propose. Instead, "Right to Shop" programs would have the perverse effect of increasing premiums, impairing the development of quality provider networks, and potentially decreasing the quality of care.

Generally, "Right to Shop" programs require a health plan to provide consumers an estimate of their negotiated rate/allowed reimbursement on a particular procedure or service with a provider and then pay/rebate consumers the difference (or a percentage of the difference) between that and

any lower amount a provider may actually charge for the procedure or service. Such programs are premised on an outmoded fee-for-service model.

Such a program does nothing to lower costs for consumers in the long run. Instead, it sets up a perverse system in several ways.

- First, encouraging consumers to make health care decisions based on a potential for monetary gain is dangerous and counterproductive. An individual making health care decisions based on cost alone may choose to receive suboptimal care, simply because it is cheaper. This dangerous scenario could lead to higher priced follow-up care down the road.
- Second, it could create an incentive for providers to perform unnecessary services, or worse, to engage in fraudulent billing. Such consumer payments could be viewed by individuals as a way to cover the individual's cost-sharing requirements or out-of-pocket costs, or by providers as a way to "make up" in volume what they may lose on a per-unit basis.

"Right to Shop" programs seek to treat shopping for health care the same as shopping for a car. While health plans provide cost transparency tools to assist consumers in making decisions about their health care, much more goes into a quality health care encounter than simply the cost of a specific procedure. Many doctor or hospital visits represent an episode of care that can include a number of different services and practitioners. A reward system that manipulates the perceived cost of covered services does nothing to enhance the quality of care an individual may receive, nor does it lower costs.

The inevitable negative effects "Right to Shop" programs create far outweigh any potential benefits, with no evidence for the efficacy of such programs.

Health plans use networks of contracted providers and facilities to deliver health care services to enrollees. These networks include physicians, hospitals, and other providers who meet quality standards at discounted rates. Health plan networks are an important and effective means of providing access and value while helping to limit consumers' out-of-pocket costs. Health plans take great care to credential and oversee the quality of health care services delivered to their enrollees by contracted providers.

The application of an incentive program to out-of-network providers is misguided and undermines consumer protections and discounts provided by networks. Consumers should not be

incentivized to visit providers which have been excluded from the health plan's network—potentially for quality or licensure reasons.

When constructing networks, health plans use the market power of their consumers to negotiate discounts with high quality providers and facilities, providing members with more affordable prices for services. "Right to Shop" programs would undercut health plans' negotiating power and ability to contain costs—to the detriment of consumers.

Providers and facilities are actually the best equipped to provide patients with clear estimates of what charges are expected and what the consumer's cost sharing responsibility could be, because they are the ones actually ordering the procedures or providing the service and billing for those services.

- Health plans can only provide a general estimate, even one in good faith, of the amount that an enrollee will be responsible to pay prior to a provider submitting a claim.

Estimates of charges given by providers to patients should be clear and identify which charges are expected and what the consumer's cost sharing responsibility will be.

Consumers need to know if the health care providers at a facility are in-network because the consumer is responsible for the cost of services if the provider or facility is out-of-network. Facilities and providers need to disclose this information to help their patients avoid surprise, out-of-network charges or plan ahead for out-of-pocket costs.

- Consumers entering hospitals are generally not told whether all of their care will be provided by health care providers contracted with their health plan. This is often true of providers providing ancillary services, such as anesthesiologists.
- The contracted facility is in the best position to know if providers within the facility are contracted providers, and should notify consumers of any services to be provided by a non-contracted provider and an estimate of those charges.

Based on the above, we respectfully request that your committee not take action on H.B. 2575.

The Honorable Dan Hawkins
House Health and Human Services Committee
February 14, 2018
H.B. 2575

I am available for questions at your convenience.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "WWS", is written over the typed name.

William W. Sneed

WWS:kjb

Attachments