

June 11, 2019

Dear California Members of the Energy and Commerce Committee:

We are writing to express our support for the Committee's bipartisan work to end the practice of surprise medical bills through the draft No Surprises Act. Our organizations worked together in California to pass an overwhelmingly bipartisan reform, AB 72, which tackled surprise bills in our state. Although we are proud of the work California did to tackle surprise billing, state law cannot protect every consumer. In particular, self-funded plans are exempt from AB 72 because of ERISA preemption. As demonstrated by the recent testimony of Congresswoman Katie Porter to the Ways and Means Committee, enrollees in these ERISA-governed plans can still be balance billed. Therefore, federal legislation remains critical to close the gaps left for Californians.

We applaud the Energy and Commerce Committee for its work to move the discussion forward with a bipartisan and substantive effort. Most importantly, the discussion draft would protect consumers from surprise bills. As in the California law, the No Surprises Act would provide that, unless the consumer consents to additional charges, they would only be responsible for the amount that they would have paid if the provider had been in network.

Additionally, the draft would help protect the market from price increases that would result from choosing an inflationary and arbitrary benchmark, such as billed charges or arbitration. While many entities, include business groups and insurers, continue to support a benchmark payment set as a percentage of Medicare, we believe the state legislation was the result of a fair and productive compromise. The California law and the Energy and Commerce draft bill rely on the median network rate for each plan in each geography, which is designed to reflect the market rate so as to not inflate commercial or government health expenditures. We agree with a Health Affairs [analysis](#) which concluded that the Energy and Commerce draft, "likely would result in lower insurance premiums in most markets and hence reduced federal deficits (from reducing loss of revenue from tax subsidies to health insurance), in addition to eliminating the scourge of surprise bills to patients."

Our experience in California is that AB 72 is working to end surprise billing for health plans regulated by California law. We believe that the law has made a positive difference for consumers while protecting against price increases and addressing a market failure. Again, we applaud your leadership on this critical issue and ensuring that all consumers in our state and nationwide enjoy similar protections.

Please let us know how we can continue to support your efforts.

Sincerely,

Blue Shield of California
Pacific Business Group on Health
SEIU United Healthcare Workers West