AMA
AMERICAN MEDICAL ASSOCIATION

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The Honorable Fred Wood, MD
Chairman
House Health & Welfare Committee
Idaho House of Representatives
P.O. Box 83720
Boise, ID 83720-0038

Re: American Medical Association opposes House Bill 495

Dear Chairman Wood:

On behalf of the American Medical Association (AMA) and our physicians and medical student members, I write to respectfully urge you to oppose House Bill (H.B.) 495, legislation to address unanticipated out-of-network care.

H.B. 495 is a problematic proposal attempting to address the important issue of unanticipated out-of-network billing in the hospital setting. Rather than proposing a reasonable solution that protects patients from unexpected medical bills while maintaining some incentives for insurers to negotiate with hospital-based physicians in good faith, H.B. 495 puts all the negotiating power in the hands of the insurers when it comes to contracting with physicians.

The AMA fully understands and supports the consumers' perspective: it is unfair to make every attempt to access in-network care at an in-network facility, only to be billed by an out-of-network health care professional. As such, the AMA is very supportive of patient-centered solutions to balance billing that prevent the patient from receiving unanticipated out-of-network care and balance bills associated with that care. But solutions must be crafted in a way that financially protect patients, ensure access to in-network care, and safeguard the health care system and all of its components. Unfortunately, H.B. 495 fails to meet these criteria.

The AMA's biggest concern with H.B. 495 stems from the way in which the out-of-network payment rates are determined. While, of course, we believe that physicians should be fairly compensated, our concerns are much larger than individual payment to individual physicians. Rather, we believe the impact of H.B. 495 will be damaging to Idaho's health care system in that contract negotiations will be even further imbalanced, physicians may not be able to keep their practice doors open, and health care innovation in Idaho will be severely threatened.

Payment benchmark

The payment standard for out-of-network physicians outlined in H.B. 495 relies on a percentage of in-network rates, as well as Medicare rates. In-network rates are payment rates that are negotiated by physicians and insurance plans during the contracting process. Physicians agree to discount their fees in exchange for contracted benefits, such as increased patient volume, being listed in the plan's provider directory, and prompt payment of claims. These discounted rates are not appropriate as benchmarks when physicians and insurers do not have a contract in place.

Similarly, Medicare rates for out-of-network payment to physicians are not appropriate benchmarks for out-of-network payments. Medicare uses the sophisticated resource-based relative value scale (RBRVS) system to establish physician payments, determined by the resource costs associated with the total amount of physician resources required to provide a specific service. The total amount of physician resources is referred to as the service's "relative value." However, before Medicare rates are finalized, they go through adjustment and conversion processes to meet federal budgetary requirements. These adjustments are done in a budget neutral manner, meaning that if an adjustment increases the payment for one service, it must account for this increase by decreasing the Medicare conversion factor. This establishes artificial decreases in payment for many physician services every year.

Additionally, before the final Medicare rates are set, the geographically adjusted relative value unit is multiplied by a conversion factor that determines the final Medicare payment. The conversion factor is a monetary payment determined by Medicare each year. Adjustments to the conversion factor are typically based on the Medicare economic index, adjustments pertaining to budget neutrality, and other adjustments stipulated by legislation. After everything is complete, the resulting payment rates are not generally reflective of markets rates for physician services. Physicians are able to accept Medicare rates for the same reasons they negotiate discounted contracted rates with private health plans, including but not limited to access to the high volume of Medicare patients associated with being a Medicare provider. It is our position, however, that using Medicare to establish out-of-network payments in the private market is not appropriate.

Impact of H.B. 495 on fair contracting

Physicians, by and large, would much prefer a contract over being out-of-network with a health insurance plan. As alluded to above, the benefits of being in-network are many – being listed in a directory, prompt payment, assignment of benefits, and familiarity with the claims and billing systems. While insurance plans would like policymakers to believe that physicians are walking away from the negotiating table, in reality, narrow and often inadequate networks mean that many physicians are not even invited to that table. Similarly, physicians who have had contracts in place with payers for years are finding themselves cut from provider networks and suddenly "out-of-network" for their patients.

That is why the AMA is so concerned about the impact of this H.B. 495 on contracting between insurers and physicians. By capping physician payments at either a percentage of Medicare or below negotiated, in-network rates, physicians come to the negotiating table, if even invited, without any negotiating tools. As written, H.B. 495 allows insurers to take or leave hospital-based physicians, as they can pay less for physicians' services when they are excluded from the provider networks. And by banning any balance bill from the hospital-based provider to the patient, the insurer never has to encounter the repercussions from customers of having networks that do not include enough emergency physicians, anesthesiologists, pathologists, radiologists, surgeons, neurologists, or other specialists to care for all of its enrollees.

Impact of H.B. 495 on access and the Idaho economy

In addition to H.B. 495's threat to fair contracting, it also has potential to undercut the stability of physician practices and the impact the Idaho economy. In a health insurance market as concentrated as Idaho's, legislation that further offsets the market balance can be extremely harmful.

If H.B. 495 were to be enacted, it would eliminate options for physicians in the health care market in Idaho. Providers across the state will feel the impact of this legislation on their bottom lines, forcing them to make tough decisions that may include closing their independent practices and even leaving the state to maintain independent practice. This could leave patients without access to hospital-based care and threaten the emergency safety-net in Idaho.

In addition to the access issues that could result, Idaho's economy could be impacted as well. Physicians are significant economic drivers in Idaho, creating $5.2 billion in economic output, supporting $2.5 billion in wages and benefits for 33,179 jobs, and contributing $168.6 million in state and local tax revenues. As such, the AMA believes it is impossible to enact H.B. 495 without unintended consequences to Idaho's economy.

Impact of H.B. 495 on health care innovation

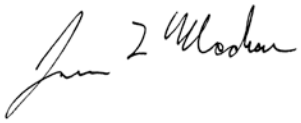
In addition to the concerns above, the AMA believes H.B. 495 will have a significant impact on health care innovation in Idaho. Now, more than ever, physicians are investing in technology to advance the care they provide. Electronic health records are incredibly expensive but allow physicians to share patient data with other providers, access registries and health information exchanges, e-prescribe, and complete authorizations in minutes rather than days.

Additionally, physicians are investing in new delivery of care models such as, accountable care organizations and other value-based designs. These new models have the potential to greatly improve coordination and quality of care for patients, but cannot be explored without significant investments from physicians and other health care providers. When Idaho physicians are excluded from provider networks and paid significantly below market rates, they simply will not be able to make these investments that benefit all patients and the health care system in Idaho.

As we have in other states, the AMA is committed to working with the Idaho Medical Society, other providers groups, insurers, patients and lawmakers toward a balanced and equitable solution to unexpected medical bills for patients. Therefore, we ask that you oppose moving H.B. 495 out of committee, so that a solution can be crafted that protects all Idahoans.

Thank you for your consideration of our concerns. If you have any questions, please do not hesitate to contract Emily Carroll, Senior Legislative Attorney, Advocacy Resource Center, at emily.carroll@ama-assn.org or (312) 464-4967.

Sincerely



James L. Madara, MD

cc: Idaho Medical Society