

**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
SURPRISE MEDICAL BILLING**

PUBLIC HEARING TRANSCRIPT

Date Held: March 12, 2021

Location: Virtual Public Hearing through Microsoft Team Meetings

Attendees:

Joe Kheder	Julie Agueros
J. Rivet	Karin Gyger
Kate (Guest)	William Barnes
Aron Goldfeld, Team Health	Alison Porter
Nany Diapalski	Roger Smith
Renee Atkinson	Mollie Zito
Bret Marr	Alisyn Crawford
Peggy Crandell	Tripp Vander Wal
Dr. Tony Bonfiglio	
Guest (no name)	
Belinda Chandler	

_____ (recording didn't pick up opening of hearing). We will admit individuals as they enter the virtual hearing room. If you wish to speak, you must leave a comment in the Team's Chat Box. If you're calling into the meeting, and wish to speak, you will be given an opportunity to do so after anyone who has submitted a chat message has spoken. We will call on each individual who has entered a name in the chat box, in the order in which they have entered their request to speak. When it is your turn, please state and spell your name, indicate whether you are representing a particular organization, and state your address. If you are called on and do not wish to speak, simply let us know and we will move on to the next person. After all individuals who have submitted a chat box message have been called on, I will then ask whether there are any other individuals in attendance who wish to speak. This will include anyone whose attending by telephone or did not leave a name when entering the hearing.

Finally, we will review any comments that were left in the chat function of the virtual hearing, and will enter them into the written record of public comments, and address anyone who may indicate a desire to speak.

The purpose of this hearing is to receive public comments related to the proposed Rules. We will not be responding to any questions or comments. If you do have a question related to the proposed rules, please submit your questions, in writing, by email to Michele Estrada at EstradaM1@michigan.gov. E S T R A D A M, number 1 @ Michigan.gov. This email address is also listed on the Notice of Public Hearing, which is available on the department's webpage. You may also email that same email address if you wish an email copy of the regulatory impact statement or the draft rules.

Finally, you may also submit written comments, by emailing the same address no later than 5:00 p.m. (EST), today, March 12, 2021.

We will now begin calling on individuals who wish to speak by looking in the comment box. If you have any difficulty finding the comment box, please let me know, and I can direct you to it. So we will call on people in order in which they entered their name. So the first individual who wishes to speak is Tony Bonfiglio.

Tony Bonfiglio: Thank you. Can everyone hear me okay? I'm very proud how this works out, I must say. Well thank you again for having me this morning.

My name is Dr. Antonio Bonfiglio and I serve as the Chief Medical Officer at Ascension Macomb-Oakland Hospital in Warren, Michigan. I would like to first express my gratitude to Governor Whitmer, Director Fox, and their staff for working with our group on proposed rules guiding implementation of Michigan's Surprise Medical Billing Act.

I am a Board-Certified Emergency Doctor, currently still practicing in Southeast Michigan, and also am a Past-President of the Michigan College of Emergency Physicians. I am clinically employed by TeamHealth, which is a national hospital clinical staffing organization based in Knoxville, Tennessee. TeamHealth operates in 47 states, employing more than 15,000 clinicians across the country.

In Michigan, TeamHealth employs more than 400 frontline workers, and operates at 12 hospital emergency departments primarily in Metro Detroit.

In 2020, TeamHealth provided emergency care to nearly 375,000 patients, of which approximately 55,000 were uninsured Michiganders.

TeamHealth does not "Surprise Bill" patients. TeamHealth instead manages out-of-network billing issues directly with insurance carriers.

I am here today to express reservations over the draft rules for the Act, in question, and respectfully request consideration of the modifications we delivered to the Department and attached to my written testimony.

I, along with many of my colleagues, are concerned the proposed rules are alarmingly vague, likely leading to a rapid downward spiral in service reimbursements and correlated compensation made to frontline workers. The very same frontline workers that have been the backbone of the COVID pandemic in our state. This will ultimately impact the delivery of care throughout Michigan.

We are convinced that without more developed rules, payers will systematically terminate managed care contracts to redefine the median "in network" rates moving forward and reduce overall payments to emergency medical providers.

Some experts predict hospital emergency departments will see unsustainable reductions in reimbursements of 20% or more - leading to one of the following scenarios:

First: Hospitals will begin to subsidize emergency care to make up the corresponding reductions from insurance payments – which in many cases will be beyond the hospitals existing financial capabilities are.

Second: Proportionate in cutbacks in manpower used to staff emergency departments. And/or,

Third: Compensation reductions to frontline workers. Again, the same workers who bravely and steadfastly staffed ED's across our State during this pandemic.

Hospitals making up the difference is the least likely scenario, leaving reductions in staff levels and/or cuts in compensation our reality, this could lead to the following:

First: Greater difficulty drawing skilled frontline workers to rural and urban areas; especially with indigent and low reimbursement populations, compounding already existing provider shortages.

Second: Exacerbate pressures already on overworked staff, particularly alarming during the current COVID pandemic.

Third: Reduction in compensation for emergency physicians and frontline providers.

Fourth: Increased waiting times in our emergency departments.

Fifth: A likely reduction in the quality of care provided.

Sixth: Increase in patient dissatisfaction.

And finally, providers leaving our State.

I am perplexed that the State has not anticipated these scenarios, and the impact the Act will have on emergency medicine without more clearly defined rules. Think about this a moment – a 20% reduction in compensation and increased workload thrust upon our very frontline caregivers during a pandemic. And this is over and above the already severe economic pressures shouldered in emergency departments since COVID began.

To compound matters, as I mentioned, TeamHealth physicians provided care to 55,000 uninsured Michiganders annually, as mandated by law. Though we openly embrace this service as part of our mission, policymakers need to note, if paid, the average amount from this population is just 3 ½% of our *breakeven* cost - meaning we write off the balance 96 ½% as uncompensated services.

Also, Medicaid payments for emergency providers is roughly 16% of our cost to deliver that care – forcing providers to absorb the balance 86% of this cost.

And though some uncompensated care cost is reimbursed through disproportionate share and low-income pool appropriations, these dollars are directed exclusively to brick and mortar hospitals, and not frontline providers and groups.

And though emergency physicians currently treat roughly 5 of 10 uninsured and indigent patients, there are no programs that deliver us a comparable offset for our services.

Presently, uncompensated care along with reimbursements from low payers like Medicaid and Medicare are offset and cross-subsidized by a range of in and out-of-network commercial payers, yielding our current economic market equilibrium in Michigan. But as noted, these amounts will quickly begin to drop by 20%, or so, unless the administration uses its authority to craft some guardrails moving forward.

We believe implementing rules as we submitted are within the administration's authority and spirit of the Michigan Surprise Billing Act. Nothing within our proposed rule amendments is prohibited by the Act, in fact, encouraged, as demonstrated by statements of "including, but not limited to..." Specifically, Public Act 234, of 2020, allows the department to promulgate rules for two sections addressing the following:

First: Median in-network rates, and

Second: Complicating factors.

Moreover, our proposed changes are equitable, and will help Michigan avoid undesirable and chaotic outcomes for emergency care, while maintaining the level of services and sustaining the medical safety-net Michiganders rely upon.

In closing, my focus is to deliver care to my patients. However, the vagueness of this Administration's Proposed Rules is alarming, and will likely lead to a downward spiral in emergency care. As an industry, we are respectively asking the Whitmer Administration to find the way to modify your rules, and to include more clear procedures containing, centering, excuse me, centering on median amounts and complicating factors, like those we have provided here today.

Thank you very much.

Sarah Wohlford: Thank you. Belinda Chandler, are you indicating a desire to submit a public comment?

Belinda Chandler: Yes, I am.

Sarah Wohlford: Ok, please proceed. Thank you.

Belinda Chandler: Good morning everyone. My name is Belinda Chandler, and I am the Executive Director of the Michigan College of Emergency Physicians. I would also like to thank the Whitmer administration,

Surprise Medical Billing Hearing
March 12, 2021
Page 5

Department Director Anita Fox, and her staff for allowing me to present today. I am also happy to follow our past president, Dr. Antonio Bonfiglio.

The Michigan College of Emergency Physicians has over 2,000 members and we have been before this committee on behalf of our members regarding surprise billing. We would like to continue the conversation regarding the proposed rules guiding implementation of Michigan's Surprise Billing Act.

During the legislative process, we stressed how this bill would create a significant financial burden for many emergency departments, particularly in the rural area, and ultimately limit access to care.

We also stressed that Medicare is not an appropriate benchmark for determining out-of-network payments, since the Medicare program was established for the purpose of reimbursing medical services for an age-specific population, and, as such, rates do not appropriately reflect key underage-65 health services. Additionally, a federal bill was simultaneously being discussed as Michigan continued to move forward House Bill 4459 and 4460 for a vote.

Now with the passing of the federal law, Michiganders will face dual arbitration systems with conflicting requirements. All ERISA plans will be handled by the federal system while non-ERISA plans will be handled in Michigan. Discrepancies between these laws will only lead to confusion over what arbitration system will be used. Hospital emergency department will be at risk for reductions in their manpower as they are forced to subsidize the reduction in insurance payments.

The Michigan College of Emergency Physicians is requesting that instead of two costly and confusing processes, consideration be given to allowing the federal law to take precedence and give our Michigan patients continuity in the arbitration process. Not doing so only achieves different payments, coverage, and chaos in navigating the varying array of requirements for resolving disputes.

Thank you so much for giving your time.

Sarah Wohlford: Thank you very much. I don't see any other messages in the chat. So, I will open it up, if you want to raise your hand, or put a message in the chat, I want to be sure everybody who wants to speak has an opportunity to do so.

Short moment of silence.

May give it just a few more moments of silence to ensure everybody can navigate Teams appropriately and speak if they want to.

Silence.

If you would like to speak and cannot locate the chat or can't raise your hand, you are welcome to unmute yourself and go ahead and state your name and provide your comment.

Surprise Medical Billing Hearing
March 12, 2021
Page 6

I will leave the floor open for a couple of more minutes to ensure that everybody who wants to speak has an opportunity to do so. Thank you.

Silence.

Ok. If there are no further comments, we will close the hearing. Any additional comments regarding the proposed rules must be submitted, in writing, by email to EstradaM1@michigan.gov or by regular mail to the Department's address listed on the Notice of Public Hearing, no later than 5:00 p.m. today, March 12, 2021. Thank you for attending. The hearing is closed as of 10:16 a.m.

Thank you.