



# MEMORANDUM IN SUPPORT

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**FOR IMMEDIATE RELEASE: JUNE 8, 2018**

Re: S.4241-C (Seward)/A.7611-C (Cahill) – An act to amend the financial services law, in relation to establishing protections from excessive hospital emergency charges.

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The New York Health Plan Association (HPA) supports S.4241-C/A.7611-C, which protects consumers from excessive hospital emergency service charges. This legislation would add hospitals to the existing Independent Dispute Resolution (IDR) process, which is currently used to protect consumers from balance bills for emergency charges by out of network physicians.

In 2014, New York adopted one of the most comprehensive package of laws regarding out-of-network billing in the country. Among the law's key elements were a prohibition on out-of-network physicians from the practice of balance billing for emergency services and that out-of-network physicians negotiate directly with the consumer's health plan to establish a reasonable level of reimbursement for these services, holding the consumer harmless. This legislation would apply the same IDR process to hospitals.

When consumers access emergency services they usually do not get to choose their health care provider. Health plans have developed extensive networks of providers, but patients still find themselves in emergency rooms of hospitals that are not in network. Unfortunately, some hospitals exploit that situation, engaging in price gouging by forcing many patients to absorb hidden, unanticipated, out-of-pocket costs far in excess of what would be considered a reasonable rate.

When a patient uses a network hospital, the patient is protected from balance billing and is only charged their portion (co-payment and deductible) of the fee agreed to between the hospital and the health plan. New York's out-of-network law protects the consumer from being put in the middle of a billing dispute between the health plan and the provider, establishing a system to have disagreements reviewed by an "independent dispute resolution entity," with the consumer to be held "harmless" for the surprise bill. However, this protection does not apply when a patient receives services from an out-of-network physician at an in-network hospital, and balance billing may occur when the hospital charges the patient substantially more than the rate normally charged and paid by the health plan or by federal and state programs like Medicare and Medicaid. Patients have the right to expect the fees they

*The New York Health Plan Association represents 29 managed care health plans that provide comprehensive health care services to more than 7 million New Yorkers.*

are charged by these providers to be reasonable. Unfortunately, rates that some hospitals charge for out-of-network emergency room services can range from several hundred percent to several thousand percent above the Medicare rates.

A key factor contributing to the problem of surprise out-of-network bills is a lack of knowledge by consumers of the charges they incur for hospital emergency services. This lack of knowledge is partly attributable to the absence of transparency in medical costs and the confusion regarding out-of-network fees being charged at an in-network facility. These factors make patients easy prey for price-gouging practices such as balance billing.

The lack of balance billing prohibitions and limits on out-of-network charges for emergency care by hospitals can also affect negotiations between hospitals and health plans and lead to higher health care costs. For example, if a health plan elects to pay full out-of-network emergency charges to protect the patient, these costs will translate into higher premiums, as the full charges a health plan might pay are likely to exceed substantially any negotiated payment amounts. Further, rather than risk paying exorbitant charges for members receiving out-of-network emergency services, a health plan may agree to high rates to ensure that certain providers are in-network, contributing to overall increases in premiums for employers and consumers. Applying the IDR process to hospitals for emergency services is an important step to restraining unwarranted and excessive rates charged by some providers.

This legislation takes a balanced approach to address the issue of out-of-network emergency services, requiring hospitals to utilize the IDR process in the same manner that out-of-network physicians must follow, prohibiting balance billing by hospitals for emergency room services and holding the consumer harmless. For these reasons, HPA supports S.4241-C/A.7611-C.