



July 6, 2018

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To: Members of the Health Care Conference Committee on H. 4639

On behalf of Health Care For All (HCFA), thank you for the opportunity to provide comments and recommendations on this comprehensive legislation to reduce health care costs, protect consumers and strengthen our health care system. We can be proud that Massachusetts has the highest insurance coverage rate in the country, but we still have more work to do to improve the quality and affordability of health care in the Commonwealth. Both the House and Senate have passed ambitious bills that advance important shared goals. As you work to fashion the final bill, we see an outstanding opportunity to make major progress in improving health care for everyone in the Commonwealth while reducing costs.

We commend both the House and Senate for including a number of important reforms in both bills that HCFA supports, including:

- establishing an academic detailing program to provide independent evidence-based education that focuses on the therapeutic and cost-effective utilization of prescription drugs;
- requiring the Center for Health Information and Analysis (CHIA) to develop and adopt a uniform methodology to communicate information on how health care providers are assigned to tiers;
- requiring pharmacies to charge consumers the off-the-shelf price (the price people would pay with no insurance) if it is lower than their copay;
- requiring insurers to continue coverage past age 26 for dependents with substantial disabilities.

We would like to highlight below some of our recommendations on a number of key issues before the Conference Committee.

Improving Accuracy of Provider Directories

Families and individuals seeking care can face difficulty finding accurate, reliable information about the provider network available through their health plan. This means patients or their families who are seeking care may not be able to find an appropriate provider in a timely manner when they need one. This is particularly true for people seeking behavioral health services. In fact, Division of Insurance (DOI) recently undertook a market-conduct examination and “secret shopper” survey of Massachusetts insurers’ provider directories, and they found many inaccuracies in the provider network information available to consumers.

Both the Senate and House bills make steps towards improving the accuracy of provider directories. The Senate bill establishes a taskforce to determine ways to ensure accuracy of provider directories. Section 138 of the House bill goes further – requiring provider directories to be easily searchable, available to the public and updated at least monthly. The House bill also establishes a task force, chaired by DOI, to make recommendations for regulations improving the accuracy of provider directories to ensure consistency across carriers. The House language reflects a consensus agreement that includes patients and consumers, providers and insurers; this consensus language was not finalized until after passage of the Senate HEALTH Act. We urge you to include Section 138 of the House bill in the final proposed legislation.

Drug price transparency

Prescription drug prices are rising rapidly resulting in increased health care costs, an unconscionable burden on consumers and significant pressure on the state’s budget. The Health Policy Commission’s (HPC) most recent cost trends report finds that prescription drug spending has grown faster than overall commercial trends in the past three years and that drug costs now account for more than 20 percent of commercial insurance spending in Massachusetts. The report also finds that prescription drug cost growth is the largest factor in state spending exceeding the cost growth benchmark.

What is further compounding the problem is that, as noted by the HPC, “transparency on pricing trends, rebates, discounts, and pharmaceutical benefit managers is lacking.” The HPC urged the legislature to increase transparency as a step to increase accountability for drug cost growth. Actual prices paid for drugs are hidden behind a complex veil of intermediaries, and effective transparency provisions would allow the public and policymakers to understand the causes of high prices and cost growth. Transparency is the first step toward understanding why prescription drug costs have increased so dramatically and what can be done to manage costs more effectively.

Recognizing this, both the House and Senate bills include provisions advancing drug price transparency. We believe that an effective provision must provide for robust disclosures that cover a substantial number of the most expensive drugs and those with substantial increases from the prior year. A complete assessment of the appropriateness of a drug’s

price requires analysis based on disclosure of the research and development costs, identifying those costs funded by public funds; revenues and net profits; and amounts spent on marketing and advertising, particularly noting advertising aimed directly at consumers and marketing conducted via discounts or product vouchers offered to consumers. Cross-subsidies can be identified by seeking data comparing the amount charged for the drug in Massachusetts to the amount charged for the same product in other countries. In addition, because the goal of the provision is to enable public accountability, the bill should include a mechanism for sharing information with the public to the extent permitted.

Based on these factors, we recommend that the Conference Committee adopt the Senate language on drug price transparency in the final bill (section 35). The Senate sections provide for more extensive disclosures and would strengthen the ability of policymakers and the public to judge if we are getting good value for our billions spent on prescription drugs. We believe that Massachusetts should join a number of other states that have enacted strong transparency requirements to further the goals of affordable care.

Oral Health Integration

Oral health is an integral component of overall health. By taking steps to integrate oral health coverage with general medical care, we can improve access to care and increase the cost-effectiveness of our health system. We commend both the House and Senate for including language to make progress in this area. Both the House and Senate bills include oral health as among the uses of telemedicine. This will facilitate improved dental care in rural areas and dental health professional shortage regions. Both bills also recognize that oral health is a key consideration as the state moves to aligned quality measures.

We urge the Conference Committee to include other provisions advancing oral integration that are contained in the House bill. These include adding oral health integration among the goals of the Health Care Payment Reform Fund (section 10) and the recommendations for the state health plan (section 26). The Senate bill also authorizes dental therapists. We urge the legislature to act on the separate dental therapy bill this which was negotiated by the Committee on Public Health.

Expanding Medicare Savings Programs

Currently, an eligibility cliff drops many low-income seniors from MassHealth or ConnectorCare eligibility, leaving them with only limited Medicare coverage and expensive premiums and out-of-pocket costs. Medicare Savings Programs help lower costs for Medicare beneficiaries with limited incomes. However, too many low-income Massachusetts seniors continue to struggle with health care expenses because of limited eligibility for these assistance programs.

For adults 65 and older, MassHealth and the state's Medicare Savings Programs only provide assistance to seniors with incomes up to 135% FPL (about \$16,000/year for an individual), well below the 300% FPL cut-off for those under age 65 to receive federal and state subsidies through the ConnectorCare program. As a result, nearly all Massachusetts seniors with income below \$2,000 a month, and without MassHealth or other assistance, spend more than 20% of their income for Medicare premiums and face higher out-of-pocket spending than adults under 65 who receive assistance through MassHealth or ConnectorCare.

We applaud the Senate and House for recognizing the extraordinary need to address health coverage affordability for seniors by making steps towards expanding Medicare Savings Programs. Section 146 of the Senate bill directs the Executive Office of Elder Affairs and the Executive Office of Health and Human Services to develop a plan to increase eligibility for Qualified Medicare Beneficiary, Specified Low-Income Medicare Beneficiary and Qualified Individual programs (collectively known as Medicare Savings Programs). Section 73 of the House bill goes further by directly increasing eligibility for Medicare Savings Programs from 135% FPL to 150% FPL. We urge the Legislature to go even further and expand Medicare Savings Programs eligibility to 200% FPL, as was proposed in an amendment by Representative Ashe during House deliberations. This further coverage expansion would enable the Commonwealth to reinvest current state spending to leverage \$7 for every \$1 in federal funding and benefits and help improve the economic security of low-income Massachusetts seniors.

Out of network billing

Out-of-network billing occurs when patients receive out-of-network care that they did not or could not intentionally choose to receive, and they are subsequently faced with unexpected medical bills. HCFA has heard from patients, for example, who go to a hospital that is in their network, choose a surgeon that is in their network and then find out after the fact that the anesthesiologist was out of their network resulting in thousands of dollars in charges to the consumer.

A comprehensive approach to protecting consumers includes strong transparency and disclosure requirements on the part of providers and carriers, a clear prohibition on "balance billing" consumers in emergency situations and other situations where a consumer unknowingly sought care from an out-of-network provider, and a well-defined process for determining payment of surprise out-of-network bills. Both the House and Senate bills address surprise out-of-network billing, and we recommend that the Conference Committee adopt certain provisions from each bill to ensure the strongest protections for consumers.

First, we recommend that the Conference Committee adopt the House language regarding comprehensive carrier and provider disclosures of the network status of a provider in order to decrease the likelihood of surprise bills in the first place. The House language requires carriers to include more comprehensive information regarding out-of-network

services in evidence of coverage documents (section 101) and provides for price transparency telephone numbers and websites, including a mechanism for the member to request the estimated consumer cost in writing (Section 104). The House bill further includes requirements for comprehensive and accurate provider directories, which are necessary for patients to obtain accurate information about which providers and facilities they can use in-network, as discussed above.

We also strongly support the House bill's provision requiring providers to determine and disclose to the patient their own network status, including the cost for out-of-network services if applicable, prior to any scheduled nonemergency service (section 68).

Second, we applaud both the House and Senate for including strong language prohibiting "balance billing" of consumers facing surprise bills, and we recommend adoption of the House language that specifies that patients cannot be billed for non-emergency services unless the out-of-network provider has obtained clearly defined prior written consent from the patient (sections 68 and 105).

Third, we recommend adopting the provision in the Senate bill providing a legal remedy under chapter 93A when a provider or carrier requests payment from an enrollee in these situations, other than for the applicable coinsurance, copayment, deductible or other out-of-pocket expense (section 138).

Finally, we support the Senate bill provision that creates an independent process for the determination of non-contracted commercial rates for emergency and non-emergency services. Under this process, the HPC will hold a public hearing and submit recommended rates to DOI for further review and approval (section 26). We believe this process will utilize the appropriate expertise of both the HPC and DOI in determining a maximum rate for out-of-network services that is both reasonable for out-of-network providers and is not at such a high level as to discourage providers from participating in an insurance network.

Prevention and Wellness Trust Fund

The Prevention and Wellness Trust Fund (PWTF) began as a pilot program under chapter 224 of 2012, to test the impact of evidence-based, community-clinical partnerships to address costly, preventable chronic disease. The program increased access to preventive services for nearly 1 million people across every region of the Commonwealth and helped transform the linkages between clinical care and community-based services. The program's community focus can play a more critical role going forward and complement the patient-focused care of MassHealth ACOs. With an independent review demonstrating the success of the program, we believe PWTF should be re-authorized as a permanent state program. This will allow participants to make long-term plans for their ongoing work with the program, rather than having to wind down programs as the end date becomes closer.

We are pleased that both the House and Senate bills re-authorize PWTF and recognize that each chamber draws on different funding sources for the program. While any of these

sources are viable options, we strongly urge the conferees to provide for stable and sufficient funding to operate the program. The initial program was funded at \$15 million annually, and at least this amount, if not more, should be assured in the conference bill. Finally, HCFA is deeply involved with examining the interaction of MassHealth ACOs and work to address the social determinants of health, including PWTF, and we hope the conference will include a representative of a consumer health advocacy organization on the Prevention and Wellness Advisory Board, as provided for in the Senate bill.

Social Determinants of Health

Section 147 of the House bill directs MassHealth to report on ACO activities regarding social determinants of health. A similar provision is included in the Senate version of the budget. Investments by ACOs to address health-related social needs hold great promise for reducing costs and improving health. Annual reports will allow policymakers and the public to assess the progress being made in this area. We urge the Conference Committee to include this provision in the bill if it is not part of the fiscal year 2019 final budget.

Thank you again for this opportunity to provide input into the final development of the health care legislation before the committee. We look forward to continuing our productive collaboration as the General Court considers these important health care issues. If you have questions or would like more information, please contact Brian Rosman, Director of Policy and Government Relations, at 617-275-2920 or brosman@hcfama.org.

Sincerely,



Amy Rosenthal
Executive Director

cc: Honorable Robert A. DeLeo, Speaker of the House
Honorable Harriette L. Chandler, President of the Senate
Honorable Jeffrey Sánchez, Chair, House Ways and Means Committee
Honorable Karen E. Spilka, Chair, Senate Ways and Means Committee
Secretary Marylou Sudders, Executive Office of Health and Human Services
Gary D. Anderson, Commissioner of Insurance