

Congress of the United States
Washington, DC 20515

June 15, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human
Services
Hubert H. Humphrey Building
200 Independence Avenue S.W.
Washington, D.C., 20201

The Honorable Martin Walsh
Secretary
U.S. Department of Labor
200 Constitution Ave N.W.
Washington, D.C., 20210

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C., 20220

Dear Secretaries Becerra, Walsh, and Yellen:

We write to emphasize our concerns that certified registered nurse anesthetists (CRNAs) and other advanced practice providers are being discriminated against by health insurance plans with respect to reimbursement rates. The *No Surprises Act* requires a rulemaking from your agencies to address this payment discrimination. As Members of the committees of jurisdiction for the *No Surprises Act* and *The Consolidated Appropriations Act of 2021*, we write to provide clarity on what we hope your agencies will accomplish through meaningful rulemaking.

The *Patient Protection and Affordable Care Act* (ACA) contained a provider nondiscrimination provision that went into effect on January 1, 2014. It prohibits health plans from discriminating against qualified licensed healthcare professionals, solely based on their license. The provision does not impose “any willing provider” requirements on health plans, nor does it prevent health plans from establishing varied reimbursement rates based on quality or performance measures.

Unfortunately, no regulation has ever been issued to ensure discrimination does not take place. The result has been that advanced practice providers, acting within the scope of their license and certification, have experienced payment discrimination when participating in networks and coverage of procedures that are clearly included in their state scope of practice. All licensed and

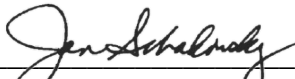
qualified practitioners – including advanced practice providers like CRNAs – should be paid the same amount for providing the same services.


We urge your agencies to create a regulation that will end these problematic reimbursement practices. Ending the reimbursement discrimination will promote access to health care and patient choice; reduce costs through competition; and, allow providers to practice to the full extent of their education and licensure. We strongly encourage the rulemaking to:

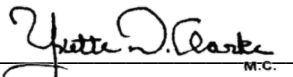
- Address parity in reimbursement rates for all types of providers practicing within their state licensure and scope of practice laws, to ensure providers working within their state scope are reimbursed equitably for the same high-quality service.
- Prohibit health plans, insurers, and payers from engaging in prohibited contracting practices. This includes the practice of excluding a specific class of provider from network participation based solely on their license.
- End the discriminatory practice where a health plan issuer places additional requirements on providers, beyond their state licensing requirements, for that provider to participate in the health plan issuer’s network. This includes supervision requirements or requirements for additional certifications or training, beyond state licensing requirements.
- Require that value-based payment arrangements not be allowed to discriminate against an entire class of providers based on their licensure.
- Include auditing health plans, health insurers, and payers for compliance with the provider nondiscrimination provision.
- Provide for a monetary penalty for non-compliance and allow providers to safely file complaints through a simple process.

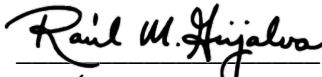
We believe these are key tenets that the rulemaking should address to ensure compliance with the ACA’s provider nondiscrimination provision and are an important piece of relieving patients from surprise medical bills. Thank you for your consideration. We look forward to seeing the rulemaking process begin on this important issue.

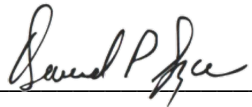
Sincerely,


JAN SCHAKOWSKY
Member of Congress


KATHY CASTOR
Member of Congress


YVETTE CLARKE
Member of Congress


RAÚL M. GRIJALVA
Member of Congress



DAVID P. JOYCE
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RON KIND
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MARK POCAN
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