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December 16, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U. S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

The American Academy of Dermatology Association (Academy), which represents more than 13,800 dermatologists nationwide, welcomes the opportunity to provide feedback on the recent bipartisan, bicameral agreement on surprise medical billing. We support efforts to hold patients harmless from the financial impact of unanticipated medical bills their insurance did not cover due to network inadequacy, while providing an opportunity for physicians and payers to resolve billing disputes through an Independent Dispute Resolution (IDR) process.

We appreciate the improvements made to the agreement over previous proposals, such as allowing physicians to enter an IDR process without a dollar-amount threshold and allowing for batching of claims. However, we have concerns that the current proposal places physician practices at a significant disadvantage to commercial health plans. Specifically, it permits the IDR entity to consider payment data from Medicare and Medicare (which often pay below the cost of providing care) but does not permit the consideration of billing charges or usual and customary charges. It also requires that physicians wait 90 days to seek fair compensation. This puts small dermatology practices at a significant disadvantage in that they have limited cash flow and lack the resources to utilize the IDR process to obtain fair compensation.

The agreement also requires out-of-network providers to include a list of in-network providers and information on medical care management (such as prior authorization) to the patient as part of the notice and consent agreement when the patient is seeking care from an out-of-network provider. If the dermatologist does not have a contractual relationship with said plan, it is unclear how the dermatologist would know the in-network options for the patient. In addition, out-of-network physicians would be held responsible through penalties for a plan's inaccurate network physician directory, including when they are listed in the directory but do not have a contractual relationship and are unaware that they are listed in the directory. Furthermore, there seems to be no disincentive for

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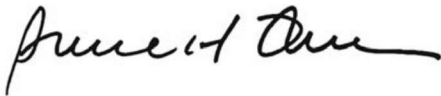
payers to limit their networks to very few providers since anyone outside of the network is at risk of being paid at the median rate. At a time when access to medical care is threatened by a shortage of healthcare providers, it would be a disservice to patients to establish a system where payers financially benefit from maintaining a very limited network of providers.

We are also concerned about the provisions related to providing a “good faith estimate” of cost to the patient. For example, it is not uncommon in the process of performing Mohs surgery for the dermatologist to not be able to predict the type of reconstruction needed or discover an unexpected diagnosis or issue that requires an additional procedure, which would then invalidate the “good faith estimate.”

Physicians and other health care providers are currently working under unprecedented conditions in the midst of an historic global pandemic to meet patient needs, which has also threatened the financial stability and viability of many small practices. Physicians are also facing a two percent cut due to the expiration of the moratorium on the Medicare sequester at the end of the year, as well as additional cuts to services due to changes in the Medicare Physician Fee schedule impacting Evaluation and Management codes expected to go into effect on January 1, 2021.

We urge you to work with the House of Medicine and other stakeholders to address these and other issues to ensure a more balanced solution that protects patients and ensures a fair playing field between physicians and payers to resolve reimbursement disputes.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce H. Thiers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce H. Thiers, MD, FAAD
President, American Academy of Dermatology Association