New rules on ‘surprise’ medical billing should help lower health care costs, protect patients
Additional regulatory actions must also lower costs for all consumers

WASHINGTON, DC – Health care payers and patients will now be better protected from unexpected medical bills, according to the American Benefits Council’s analysis of interim final regulations (IFR) issued today by the Biden Administration. Surprise medical bills refers to bills for out-of-network emergency services and out-of-network providers in in-network settings, where the provider bills the patient for often substantial amounts above what the plan pays.

“‘Surprise’ medical bills have been a scourge on our nation’s health care system for a long time, with the problem reaching crisis levels over the last decade as health care costs have exploded,” said Ilyse Schuman, senior vice president of health policy. “The surprise billing ban, enacted under the Consolidated Appropriations Act, 2021, and these rules initiating its implementation constitute a critical step toward a more rational health care payment system. We commend the administration for taking this initial step and urge it to continue on the path towards protecting patients and lowering health care costs for all consumers.”

The newly released IFR represents the first in a series of statutorily required rulemaking projects needed to implement the surprise billing ban and to establish the new related payment process, for plans and providers. While the IFR focuses on the methodology for how plans are to calculate the "qualifying payment amount" - the median contracted rate - and in what circumstances patients can waive the protection from surprise bills, additional rules will be necessary to resolve vital issues including, primarily, the
independent dispute resolution (IDR) process that providers may use to seek additional amounts from plans.

Many of the Council’s extensive recommendations, outlined in a June 11 letter to agency officials, were adopted in the IFR, but many other key issues must be addressed effectively in the next phase of regulations. One fundamental issue is that the regulations must confirm that IDR entities are to defer to the qualifying payment amount except in extenuating circumstances, as the amount the plan must pay.

“Employers create enormous value in our health care system, but this value is slowly being eaten away by ever-increasing health care costs,” Schuman said. “It is essential that the regulations implementing the surprise billing ban close avenues for providers to abuse and overuse the IDR system, which would drive up health care costs and undermine the provider networks employers have worked so hard to develop. Clear rules reiterating the primacy of the qualifying payment amount in the IDR process will help achieve one of the key purposes of the surprise billing ban – which was to lower health care costs for all consumers.”

For more information on employer-sponsored health plans, or to arrange an interview with the Council’s health policy team, contact Jason Hammersla, Council vice president, communications, at jhammersla@abcstaff.org or by phone at (202) 422-4652 (cell).

# # #

The Council is a public policy organization whose members include over 220 of the world’s largest corporations, as ranked by Fortune and Forbes. Collectively, the Council’s members either directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.