



April 23, 2020

U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building Ground Floor, Room 410-
Washington, DC 20590

Via regulations.gov
Re: Docket Number DOTOST-2019-0182

To whom it may concern:

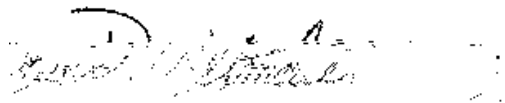
On behalf of the membership of the National Association of Insurance Commissioners, we submit comments on the Department of Transportation proposed rule that would define unfair and deceptive practices in air transportation. Like DOT's insurance regulations, we have extensive experience in balancing the needs of consumers and

or the markets in general, many air ambulance providers do not balance bill, showing that markets can operate effectively without balance billing.

While balance billing fits the proposed definition of an unfair practice, stakeholders would benefit from a more explicit and detailed statement in the final rule that references air ambulances directly. DOT should address the specialized subject of air ambulances by stating that balance billing, where a consumer has no choice of provider and no reasonable knowledge of the amount of the bill, is an unfair practice when the covered amount of the bill is reasonable (covering the reasonable cost of providing services, taking into account the provider's costs, plus a reasonable profit).

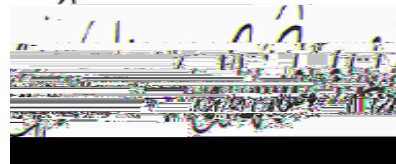
Establishing a common understanding of this unfair practice would avoid likely disputes between stakeholders over whether balance billing practices fall under the proposed definition. More importantly, it would protect consumers from a practice that has affected individuals in every region of the country.

We continue to reject the argument that ending balance billing by air ambulances will leave rural Americans without access to air ambulance services. Rural residents are at risk for excessive bills under the status quo and deserve protection that can only be provided by federal action. Preemption of any effective state action is required.

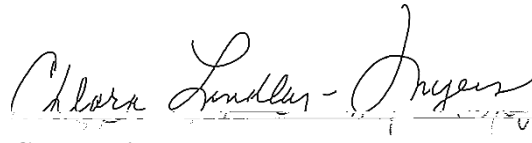




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November 7, 2019

The Honorable Bobby Scott
Chairman
House Committee on Education and Labor
2176 Rayburn House Office Building
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The Honorable Frank Pallone, Jr.
Chairman
House Committee on Energy and Commerce
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Washington, DC 20515

The Honorable Richard Neal
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
House Committee on Education and Labor
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The Honorable Greg Walden
Ranking Member
House Committee on Energy and Commerce
2185 Rayburn House Office Building
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairmen Scott, Pallone, and Neal and Ranking Members **Foxx, Walden,** and Brady:

Thank you for your efforts to move legislation to lower health care costs and protect consumers from surprise bills. We write today to urge you to include in any surprise bill legislation crucial protections against surprise billing by air ambulance providers. As regulators of state insurance markets, we want to reassure you that preventing surprise bills from air ambulances will benefit rural Americans and maintain their access to needed medical transport. Rural Americans today face the risk of a bankrupting surprise air ambulance bill and deserve protection from these excessive bills.

State insurance commissioners have been fighting for years to protect consumers from outrageous surprise bills from some air ambulance providers. After conducting extensive investigations, numerous state insurance regulators have determined that many air ambulance operators who are not affiliated with hospitals choose not to negotiate contracts with ~~insurers and consumers. Instead, they charge rural Americans with the cost of surprise bills for emergency air ambulance services, often at rates far in excess of what would be reasonable costs for the consumer, and no surprise bills.~~ Currently, states have very limited authority to regulate air ambulances; states have been unable to enact meaningful legislation to protect consumers because certain courts have interpreted that the federal Aviation Deregulation Act of 1978 (ADA) preempts state regulations on air ambulance

passage of those laws in 2015 and 2017, no air ambulance providers left the state. North Dakota is about as rural as you can get and we write to tell you from our perspective, the air ambulance companies themselves have dispelled the myth that they will flee from the rural areas if these reasonable regulations are passed by Congress.

Rural Americans are the most at risk under the status quo that allows surprise bills. With air ambulance charges unconstrained, rural residents are paying more and more of their health care dollars to air ambulance operators, through surprise bills for those who need air medical transport and through premiums for everyone else. With all the strains our rural health care system is facing, we cannot allow these providers to charge unlimited amounts, particularly as Congress works to limit balance bills generally.

Lower Health Care Costs Act, and specifically section 105 regarding air ambulance protections, allows the marketplace to work. Under this legislation, the providers can negotiate contracts with health insurers at rates the market deems appropriate. If an air ambulance company chooses not to negotiate with health insurers or is unable to reach agreement, this legislation ensures the market average rate of payment is provided for their services, meaning this legislation allows those rates to move over time and adjust as the marketplace changes.

Should a state find that it has an inadequate number of providers under this market-based solution, an outcome we find very unlikely, state insurance regulators would be happy to work with federal officials to make geographic adjustments to the required payment rates. We suggest establishing geographic regions in consultation with the National Association of Insurance Commissioners. We would also support amendment to allow individual insurance commissioners to request an adjustment Allowing for
such adjustments would enable states and the federal government to work together to assure that rural areas continue to receive the air ambulance services they need.

Our states have a mix of air ambulance providers; some are independent, stand-alone operators and some are hospital-

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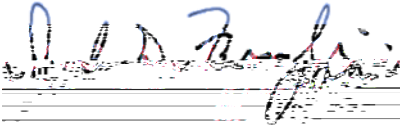
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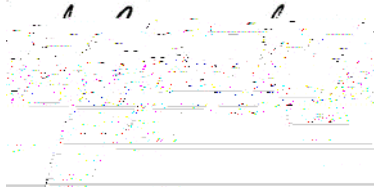
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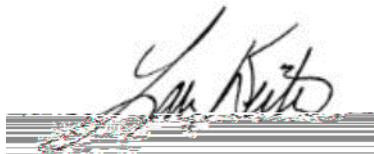
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