

Ways & Means Committee Member Day
June 4, 2019
Testimony of Rep. Ami Bera, M.D.

Thank you Chairman Neal, Ranking Member Brady, and all of the Ways & Means Committee members for inviting us here today to speak about our priorities for this Committee this Congress. I appreciate the work the Committee has done already this Congress, especially regarding health care, which I'm here to talk about today.

Prior Authorization

As you all know, I am a physician by training and health care has been an important focus of my work in Congress. This week, I'm part of a bipartisan team of co-authors, including two of your Committee Members, Rep. Mike Kelly and Rep. Suzan DelBene, along with fellow physician Rep. Roger Marshall of Kansas, who are introducing the *Improving Seniors' Timely Access to Care Act*, which would increase oversight and transparency of the use of prior authorization in Medicare Advantage.

Last year, leading physician, hospital, and insurer groups released a consensus statement on the use of prior authorization. Also last year I led, along with Rep. Phil Roe, a letter signed by more than 100 Members of Congress to CMS calling for similar reforms. Unfortunately, we have continued to hear about how the use of prior authorization has led to providers spending valuable time away from their patients in an opaque process that has led to delays in patient care.

There are two key parts of our legislation: first, it will require electronic transmissions of prior authorization; there are reports that upwards of 88% of prior authorization requests are currently done manually, by phone or fax. Second, it will require insurers to be very clear exactly what providers need to submit when seeing prior authorization and that insurers provide the medical justifications for what they are requesting.

We believe this legislation is an important step to preserving the provider-patient relationship while ensuring that care is evidence based and appropriate, and I look forward to working with the Committee on this legislation.

Surprise Billing

I'd also like to speak about surprise medical bills, which I know will be a priority of your Committee, as well as the Energy & Commerce and Education & Labor committees. I appreciate the work the Committee has done and the commitment to work towards a solution that keeps patients out of the middle of these negotiations.

As Congress works out the details of solving this problem, I believe we should look to New York's "baseball arbitration" model. An important report by researchers at Georgetown University that looked at the New York law and its implementation found broad stakeholder satisfaction. More importantly, the report authors heard that the law has incentivized wider provider networks as well as encouraged providers and payers to work out their disputes before it escalates to arbitration. When we say one of the goals for health care policy should be "aligning incentives," the New York State law seems to be doing just that.

This contrasts with states that have developed laws that focus more on payment standards, such as in my state of California. We have heard from stakeholders there that a troubling unintended consequence has been “insurers refusing to renew long-standing contracts or reducing the contracted rates to the out-of-network standard in the new law. . . . While patients are protected from unanticipated bills, physician networks are diminishing.”¹ That’s why I urge the Committee to look to the New York experience as a model for legislation in Congress.

HIT

A third issue I want to discuss is the Health Insurance Tax, which Congress suspended through calendar year 2019. I urge the Committee to work promptly with House Leadership to continue the delay of the tax, as health insurers either have or will soon be finishing pricing for their products and submitting rates to either CMS or states.

Delaying this tax is critical because it imposes a fee on insurance providers and, in turn, raises costs for beneficiaries who work for small businesses, buy individual plans through a broker, have retiree Medicare Advantage plans, and more. Based on a study by Oliver Wyman analyzing what happens if the tax comes back on January 1, 2020, as is currently scheduled, next year the average family employed by a small business could see their premium increase \$479, costing them \$5,824 over the next 10 years.

¹ California Medical Association letter dated February 28, 2019, to Senators regarding surprise medical billing. <https://www.cmadocs.org/Portals/CMA/files/public/CMA%20Letter%20to%20Congress%20on%20Surprise%20Billing.pdf> (accessed May 2019).

The easiest step Congress can take to help with health care affordability is to again delay this tax for 2020 and 2021, and that's why I introduced legislation that would do just that with Rep. Walorski. I urge the Committee to prioritize work on the delayed health care taxes that will soon come back without the action of Congress.

HSAs

The last item I want to speak about are Health Savings Accounts. I have long been a proponent of HSAs to help families save for future medical expenses just as they do for retirement or college.

I will be introducing, along with Committee Republican Rep. Jason Smith, legislation to allow Medicare beneficiaries to have an HSA. Those on Medicare often have significant out-of-pocket spending; a *Journal of the American Medical Association Oncology* study published in 2016 found that almost 10% of elderly patients with Medicare alone spent at least 60% of their annual household income on out-of-pocket health care expenses after they were diagnosed with cancer.

Although we expect to have health concerns as we age, we usually can't predict when. In addition to the many other health care reforms we should both be protecting and expanding, we should also continue to incentivize individuals to save in healthier times, and this should apply to those on Medicare. I am glad the Committee worked on HSA legislation last Congress and I hope that work continues in the 116th.

Conclusion

I look forward to working with you on these issues in particular and thank you all again for the important work this Committee does on health care and many other issues that affect our constituents every single day.