



January 24, 2020

Dear Members of the Senate Finance Committee:

We request your support of **S.309, an act relating to limitations on health care contract provisions and surprise medical bills**. This important bill aims to protect Vermonters from surprise billing without penalizing referring providers for recommending the care that they think is best for their patients.

This bill is in response to a payment policy that BCBSVT announced last Summer. Under their policy, in certain circumstances, providers who refer their patients for out-of-network services can now be held financially liable for fees charged to patients by those out-of-network providers. These financial liabilities could unduly influence medical providers to forego recommending medical services they otherwise believe are in the patients' best interests. The financial liabilities could also threaten the solvency of smaller medical practices. No other payers in Vermont have such a draconian policy, and it is also contrary to solutions discussed at the federal level.

The Vermont Medical Society, HealthFirst, and the Vermont Association of Hospitals and Health Systems had several meetings with BCBSVT to work with them on this issue, but we were unable to reach a solution. As a result, our three organizations formed a coalition with the Vermont Psychological Association and the Vermont Association of Naturopathic Physicians to draft a legislative solution, which has resulted in S.309.

The reverse side of this letter includes more information about the issues this bill will address. We whole-heartedly support this bill and are happy to provide testimony.

Sincerely,

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VMS

Devon Green
VAHHS

Susan Ridzon
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Joshua Green
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Surprise Billing and Health Care Contracts – S.309

Problem: Surprise Billing for Non-Emergency Services

Surprise billing occurs when a patient receives medical care from a place they think is in-network, but one provider in the chain of care, unbeknownst to the patient, is out-of-network. The patient is later billed for this out-of-network care.

Proposed Solution in S.309: Codify and expand Vermont’s current prohibition on surprise billing for emergency services (per Vermont Health Insurance Rules) to other services in a facility

Codifying Vermont’s rule on surprise billing will offer more permanent protection for Vermonters.

S.309 will also expand the protections against surprise billing to other health care services provided in an in-network facility. If a patient goes to an in-network facility, but one of the providers working with the facility is out-of-network, the patient will only pay the out-of-pocket costs of what they would normally pay under their health plan.

- Example: A patient goes to a hospital for surgery. The hospital and surgeon are in-network. The anesthesiologist is out-of-network.
Current outcome: The patient gets billed the ***out-of-network costs*** for the anesthesiologist, resulting in unexpected and unaffordable out of pocket cost.
Outcome under S.309: The patient gets billed the ***in-network amount*** for the anesthesiologist

Problem: Liability to referring providers for referring out-of-network

Health insurers are trying to reduce surprise billing by placing a fine or total liability on providers who refer out-of-network under certain conditions. Placing liability on providers for their referrals has a chilling effect on the patient-provider relationship.

Solution in S.309: Prohibit liability on in-network providers for out-of-network referrals

To maintain an open patient-provider relationship, contract provisions shifting liability to referring providers should be prohibited for many reasons, including:

- Holding providers accountable for knowing all the providers who are in-network at the time of referral, as well as at the time the patient ultimately has the referral appointment, is unreasonable and untenable.
- Imposing referring provider liability will deter providers from recommending medical treatment that may be in the best interest of the patient.
- Placing insurers in the position of making medical decisions for providers, which is beyond the scope of their expertise and knowledge.