

## Talking Points:

- There is an important debate going on in Lansing about protecting patients from unanticipated medical bills when no in-network physician was available to provide services.
- MSMS supports efforts to put an end to unanticipated out-of-network (OON) medical bills.
- Patients should not be penalized if their health insurer does not provide an acceptable network of physicians.
- Those who experience unanticipated OON bills should only be responsible for the costs they would have been billed if the provider was deemed “in-network.”
- A fair and balanced process is needed to determine appropriate rates for providers who do not contract with a specific insurer. A dispute resolution process is also essential to determine a compromise when the patient payment is inadequate.
- Physicians should be able to pursue further payment for services directly from the insurer without further involving the patient, inadvertently putting them in the middle.
- The Michigan State Legislature needs to ensure that Michiganders can access the benefits they were promised by their health plans without unanticipated medical bills.
- Currently, the legislation introduced in Michigan -- House Bills 4459 and 4460 -- would codify an out-of-network payment standard tied to 125 percent of Medicare. This approach is heavily favored toward the insurance companies and equates to the most aggressive form of price-setting we have seen around the country in the context of out-of-network billing laws.
- While Michigan generally sees fewer instances of out-of-network billing relative to other states, setting an out-of-network benchmark could, paradoxically, have the unintended consequence of creating new network adequacy issues as insurers have less incentive to negotiate a fair in-network rate.
- Early evidence in California, which has codified a payment standard of 125 percent of Medicare or the average contracted rate, whichever is higher, is showing that the payment standard is influencing the payer-providing bargaining landscape in favor of insurance companies, which is in turn undermining physicians’ economic leverage and resulting in reduced or canceled contracts with physicians.
- According to the 2019 American Medical Association – [Competition in Health Insurance: A Comprehensive Study of U.S. Markets](#) – an annual analysis of insurance market concentration, Michigan has the number #6 least competitive insurance market in the nation. This should

concern lawmakers for multiple reasons not least of which is that the exercise of market power adversely affects health insurance coverage and health care for constituents.

- This legislation would only serve to widen the existing gap between insurance company and physician negotiating power in our state.
- We support a more comprehensive, balanced approach like we have seen in New York and Texas, which do not codify a payment standard but instead takes the patient out of the middle and allows the insurers and provider to negotiate in good faith with the option of an independent dispute resolution process in the rare cases when those negotiations break down.
- There is a [growing body of evidence](#) that this approach works and is saving customers hundreds of millions of dollars in unanticipated medical bills.
- As the debate heats up in Lansing, we urge the legislature to have an open and serious debate about a more comprehensive and balanced approach to this complex but important issue.