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# PATRICK SNYDER

STATE REPRESENTATIVE • 85<sup>th</sup> ASSEMBLY DISTRICT

## **Testimony in Support of Assembly Bill 571**

Assembly Committee on Health

January 11<sup>th</sup>, 2022

Chairman Sanfelippo and members of the Committee:

Senator Feyen and I, authored this bipartisan legislation to clarify that healthcare providers in Wisconsin may offer discounts to patients on the basis of prompt payment. This legislation received a unanimous vote in the Assembly last Session but ultimately failed to pass the Senate due to the COVID-19 pandemic.

Health insurers often require consumers to pay for a portion of healthcare costs through cost-sharing arrangements like: copayments, coinsurance, and deductibles. These out-of-pocket payments are burdensome on patients who have to pay them and on healthcare providers to collect.

The U.S. Department of Health and Human Services allows providers to offer discounts for prompt payment under certain criteria – which this bill matches. Allowing providers to avoid the collection process by offering a discount for prompt payment benefits both providers and consumers who can save some money on their out-of-pocket expenses.

Ensuring uniformity between Wisconsin law and federal guidelines on this issue will ensure that patients can take advantage of discounts that are currently offered in many other states.

Thank you for taking the time to hear my testimony today. I am happy to answer any questions you may have.



**DAN FEYEN**

**STATE SENATOR**

18th Senate District  
(608) 266-5300  
Sen.Feyen@legis.wi.gov

PO Box 7882, Madison, WI 53707-7882  
<http://legis.wisconsin.gov/senate/18/feyen>

To: The Assembly Committee on Health  
From: Sen. Dan Feyen  
Re: Assembly Bill 571

Hello, Chairman Sanfelippo and committee members. Thank you for taking the time today to hear testimony on Assembly Bill 571.

This legislation is a reintroduction of 2019 Senate Bill 763/Assembly Bill 841. Last session, this bi-partisan legislation aimed at helping out consumers, passed the Assembly on a voice vote but failed to pass the Senate due to the COVID-19 pandemic. This bill did pass the Senate Committee on Health and Human Services unanimously.

The goal of this bill is to clarify that Wisconsin health care providers are allowed to offer discounts to consumers who owe health insurance cost-sharing amounts, such as copayments, coinsurance, and deductibles, and who pay those costs timely. This bill does not require that providers offer this discount, it merely clarifies that they are allowed to do so.

Allowing health care providers to offer discounts to consumers who promptly pay their medical bills will benefit the consumer by helping to lower medical costs for them. Out-of-pocket health insurance costs have been steadily increasing over the years and are expensive for consumers to pay, and for health care providers to collect. This bill is a common-sense approach to help lower these costs for consumers and limit the collection costs the health care provider accrues.

This bill contains certain requirements for the provider offering the discount, including requiring that the discount amount bear a reasonable relationship to the amount that the health care provider avoids in collection costs, as well as requiring that the cost of the discount not be shifted to any other payer.

This bill is drafted to align state statute with federal rules and guidance from the US Department of Health and Human Services Office of the Inspector General. Numerous other states allow for this type of discount and this bill would ensure Wisconsin is doing the same.

This bill is supported by the Wisconsin Hospital Association and Americans for Prosperity, as well as numerous health care providers in the state.

Thank you again for your time and consideration. I am happy to answer any questions the committee may have.



**ADVOCATE. ADVANCE. LEAD.**

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**TO: Members of the Assembly Committee on Health**

**FROM: Brian Potter, Chief Operating Officer, Senior Vice President Finance  
Kyle O'Brien, Senior Vice President Government Relations**

**DATE: January 11, 2022**

**RE: Support Assembly Bill 571 – Clarifying the Ability for Wisconsin Health Care Providers to Offer Limited Prompt-Pay Discounts to Patients**

On behalf of Wisconsin's hospitals and health systems, we want to thank the bipartisan group of legislative authors and sponsors of Assembly Bill 571 and its companion in the Senate. This simple legislation, which passed unanimously last session by the Assembly and was supported unanimously in Senate Committee, will provide clarification to Wisconsin health care providers who want to offer discounts to patients who pay their bills timely. Last session, like this session, this bill was authored by a bipartisan group of lawmakers including Senators Dale Kooyenga and Jon Erpenbach and then-Representatives John Nygren and Deb Kolste.

Unfortunately, like many other pieces of legislation last session, the bill failed to pass the Senate due to the COVID-19 pandemic. While Wisconsin providers and patients have been required to operate for another two years without clarification in the law – you are now in the position to act on this legislation.

A common-sense approach to reduce overall costs for both patients and providers is to recognize that a health care provider can discount the amount that is owed by a patient when the patient pays his or her bill promptly. The provider would offer the discount to encourage the patient to pay the bill timely and to allow the provider to avoid collection costs. Assembly Bill 571 provides this clarification in Wisconsin law, while also conforming Wisconsin law to federal requirements and guidance from the U.S. Department of Health and Human Services Office of Inspector General that addresses prompt pay discounts.

As providers have weighed offering prompt-pay discounts to their patients, providers have considered the applicability of federal and state laws, guidance, and other factors. For example, there is an unpublished 2004 Wisconsin Attorney General opinion that stated, if certain conditions are met, prompt-pay discounts are allowed under Wisconsin law. Other views, however, have discouraged the practice.

Assembly Bill 571's clarification of Wisconsin law would eliminate an existing barrier that causes some health care providers to not offer certain discounts to their patients. This legislation's provisions recognize, but also create limitations around, prompt-pay discounts to provide regulatory consistency between state and federal requirements, removes a potential barrier to more efficient health care operations, and is clearly a benefit to patients that can help lower overall costs.

**The Wisconsin Hospital Association asks for your support of this simple legislation.**



**Wisconsin  
Association of  
Health Plans**

Chairman Sanfelippo, members of the Committee, thank you for the opportunity to testify today. My name is Tim Lundquist and I am the Senior Director of Government and Public Affairs at the Wisconsin Association of Health Plans. The Association is the voice of 12 Wisconsin community-based health plans that serve employers and individuals across the state in a variety of commercial health insurance markets. Our members are also proud to partner with the state to serve Wisconsin's State Group Health Insurance Program, and the Medicaid Managed Care program.

Community-based health plans agree with the stated goal of Assembly Bill 571, which is to help patients and create administrative efficiencies for providers. However, health plans have concerns about modifying Wis. Stat. 146.905 in the manner currently proposed.

Wis. Stat. 146.905 is a long-standing provision that protects the integrity of insurance benefit design. The changes proposed in Assembly Bill 571 constitute a change in state policy that is likely to have unintended consequences. Health plans recommend modifications to Assembly Bill 571 that will not only help patients and address providers' debt collection costs, but also protect against discount programs that could lead to increased costs for insured patients at-large.

**In order to protect patients and ensure non-discrimination in the administration of discount programs, health plans recommend Assembly Bill 571 be amended to:**

1. Require that discount programs be applied in a uniform manner.
2. Allow health plans the option to audit the discounts that are offered and accepted to their enrollees, to ensure discount policies are uniformly applied.
3. Specify that discounts on cost-sharing must be provided without regard to:
  - a. A patient's race, color, creed, national origin, age, disability, sex, or economic status.
  - b. The issuer of the individual's disability insurance policy.

**In order to maintain the integrity and intent of Wis. Stat. 146.905, health plans recommend Assembly Bill 571 be amended to:**

1. Require providers to annually provide health plans with a written, up-to-date discount policy.
2. Prohibit discounts from being offered before the day services are rendered.
3. Cap discounts at 15 percent of the cost-sharing amount that is owed to the provider.
4. Limit discounts to individuals who have not paid their cost-sharing in full after 90 days of a service being rendered.

Health plans propose to limit discounts to patients who have not paid in full within 90 days because "prompt-pay" discounts are more likely to benefit individuals with the financial means to pay a large sum up-front. That means lower-income individuals would likely not be able to benefit from a prompt-pay discount. A "forgiveness" program that begins after 90 days would benefit the patients who are most likely to struggle to pay their medical bills, while also allowing providers to realize significant cost savings by avoiding third-party collections.

We look forward to working with you to ensure Assembly Bill 571 achieves legislators' stated goals while reducing unintended consequences. I am happy to answer any questions you may have at this time.



January 10, 2021

*Distributed as written testimony at the public hearing on January 11, 2021*

The Honorable Joe Sanfelippo, Chair and  
Members, Assembly Health Committee  
State Capitol  
Madison, WI 53708

**Re: Assembly Bill 571, Prompt-Payments to Health Care Providers**

Dear Chairman Testin and Members,

On behalf of Wisconsin employers that offer health coverage to workers, I encourage the Senate Health Committee to proceed with caution on Assembly Bill 571 relating to discounts for prompt payment of health care fees.

The Alliance is a cooperative of 285 large and mid-size employers, most of them headquartered in Wisconsin. An important service we perform on behalf of members is contracting directly with health systems and independent physicians to provide access to health care for more than 100,000 employees and their family members who are covered under employer health plans. While state regulation of self-funded plans is generally pre-empted under federal law, state legislation that impacts the way health care providers are setting their rates and billing their patients is of great interest to members of The Alliance.

Assembly Bill 571 would weaken a section of the statutes that was originally put in place to ensure the integrity of health coverage cost-sharing requirements that health plans rely on to encourage appropriate utilization of care and balance cost-sharing between plans and patients. Assembly Bill 571 as drafted creates a significant exemption and blind spot for health plans when it comes to patient out of pocket costs. If you decide to move this legislation forward, we ask you proceed carefully in a way that does not unintentionally increase costs for health plans. As a start, we ask that you narrow the scope of the exemption and ensure that providers are informing plans about actual discounts on specific claims.

We are very interested in working with lawmakers to find ways to reduce costs, and to stop legislation that takes already high medical prices in the wrong direction. Given the complexity of the health care and coverage system, we are happy to serve a resource to you on this or any other health benefits matters. Please see the enclosed one-page handout for additional information and do not hesitate to contact us at (608) 334-0624 if we can be of assistance to you.

Sincerely,

Cheryl A DeMars, CEO  
The Alliance

Encl: Legislative Handout

# About The Alliance

We move health care forward by controlling costs, improving quality, and engaging individuals in their health.

The Alliance was created over 30 years ago by Wisconsin employers that came together to control high health care prices. Today, we serve as the voice for more than 285 self-funded employers across the Midwest who want to lower their health care costs.

As a not-for-profit group-purchasing cooperative, The Alliance is owned by its employers and remains a trusted, objective partner for them, their employees, and their families.

## What We Believe:

### Health care costs too much.

Prices are high, especially in Wisconsin and Illinois, where we're consistently some of the highest-cost states relative to Medicare.

### High prices erode family incomes.

High prices also keep employers — the largest source of health care coverage for families in Wisconsin and Illinois — from hiring more employees and raising wages.

### We can improve health care.

Consumers deserve transparency, and by making price and quality information easily accessible, we can offer health care that's high-value (low-cost and high-quality).



## Our Mission for Lawmakers:

We're here to provide the education and insight you need to make well-informed decisions on health care topics that matter to employers in your community.

You want to represent and amplify the voices of your constituents, and we do the same for employers. Health care's status quo isn't working for anyone, and we empower you to enact change that fixes health care's incredibly complicated issues.

When you make decisions that improve the lives of your community, you show you have their best interests at heart. You're their voice in government; we're the voice in health care.

## Savings

Employers of The Alliance band together to disrupt rising health care costs, and as a purchasing group, saved over \$300 million in 2020 alone.

## We Work With:

285+  
Employers

100,000+  
Lives

31,000+  
Medical Professionals

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The Alliance   
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## Testimony on Assembly Bill 571

Melissa Duffy, Government Affairs and Advocacy

January 11, 2022

Common Ground Healthcare Cooperative has concerns about Assembly Bill 571 we hope will be addressed prior to passage. Without changes, we are concerned this bill could hurt more people than it helps.

Common Ground Healthcare Cooperative (CGHC) is a non-profit, member governed cooperative that provides health insurance to small employers and thousands of individuals in Wisconsin that are not offered health coverage through an employer. We put the interests of our members first when it comes to balancing cost and coverage – a mission that brings us to the capitol on occasion to help legislators better understand the hidden cost implications of proposals coming from special interest groups.

### AB 571's Unintended Consequences

An Attorney General's opinion confirmed that health care providers may offer discounts to patients "as long as these discounts are offered to all patients with no discrimination and the health care provider provides full disclosure of the discount to patients and their insurance carriers." In addition, the discounts cannot be "related or conditioned to the amount of deductible or copayment owed by the patient." These are key protections under current law in place to prevent providers from undermining insurance contracts to the detriment of insurance consumers as a whole. Unfortunately, AB 71 significantly weakens the protections offered by Wis. Stats. 146.95.

The co-sponsorship memo cited concerns about out-of-pocket costs that are difficult for health care providers to collect from patients. But there are two important truths the legislature should understand when considering out of pocket costs. First, there are health plans available with high out-of-pockets and lower out-of-pockets that consumers can choose from. In either case, out-of-pockets costs and premiums are being driven higher by one thing: the ever-increasing cost of care. If you push one lever down (premiums), the other rises (cost-sharing), but growing prices are inflating both.

It is important to note that if out of pocket costs are truly the concern, it is well within the power of health care providers to lower their prices so these can come down.

Second, most people cannot afford to pay thousands in out-of-pocket costs all at once, regardless of a discount, but allowing providers to write off these amounts without insurers knowing or tracking it could drive premiums higher for everyone. In other words, the legislature should proceed carefully lest they act to artificially lower deductibles and out of pocket maximums for only those that can afford to pay, while taking money from everyone else.

While our health plan would love to lower deductibles across the board, actuarial science makes it impossible. We cannot offer plans at lower premiums that people can afford without increasing out of pockets. As drafted, Assembly Bill 571 opens a significant loophole in Wisconsin health laws that would enable a broad range of health providers to undermine these insurance designs that actuaries rely on to prevent overutilization of costly health care services. In other words, prices will go up. We ask that you narrow the opportunity to undermine cost sharing by establishing better defined limits to prevent the bill from leading to higher insurance rates for consumers.

## Suggestions to Improve the Bill

Below are some of the issues created by the proposed bill that we believe merit consideration. As a start:

- It is unclear whether the bill is intended to allow insurers to be notified in a timely manner regarding a discount to a patient. If a plan cannot apply the amounts that patients actually pay to deductibles and maximum-out-of-pockets (MOOPs), it undermines insurance plan designs. Insurers should be notified.
- Insurers typically pay health claims within 30 days of receiving them from a provider. If an amount is discounted after a claim is paid, it will be difficult to adjudicate the adjustment without reprocessing the claim and any claim paid after. There should be strict time limits on what qualifies a payment as “prompt.”
- The bill includes a broad definition of health care provider. Section 146.905(3)(a)(2) is insufficient to enable health plans to track when discounts actually occur and should be improved.
- 146.905(3)(a)(3) requires a discount be in an amount that bears a reasonable relationship to the amount that the health care provider avoids in collection costs. Providers can sell patient debt for pennies on the dollar, so practically any discount can probably be justified. There should be limits on the discount lest out of pockets be rendered useless in insurance plan design.
- The bill should place requirements on providers to return overpayments to patients or insurers within any period of time.
- Anti-discrimination provisions in place to protect all consumers.
- Providers should be explicitly prohibited from using prompt pay discounts to entice utilization, or to encourage or pressure patients to seek loans or put charges on credit cards. Providers should be outright prohibited from requiring patients to pay their bill as a condition of getting care.

## An Alternative Solution

CGHC is the largest individual market carrier serving Wisconsin. We could argue that it is our members who are in most need of health care discounts since, outside of our cooperative, our members are completely on their own when it comes to buying health care.

Unfortunately, AB 571 would not help our members. Our members need more time to pay their medical bills, not less. And as [a study by researchers at Yale shows<sup>1</sup>](#), instead of getting the time they need to pay these bills, they have instead been sued by Wisconsin hospitals – a practice that increased by 37% between 2001 and 2018.

Medical debt is having a profound impact on our economy – not just in Wisconsin, but across the nation. Different research, [published in the Journal of the American Medical Association \(JAMA\)<sup>2</sup>](#) last May, reveals that Americans are burdened by at least \$140 billion in outstanding medical debt which is having a chilling impact on the economy. That is what we should be focused on.

The answer to this problem is much greater than a single piece of legislation and must involve numerous stakeholders. We recommend that a Legislative Council study committee be formed to begin a deeper analysis of this problem in Wisconsin before it gets any worse.

<sup>1</sup> <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01130>

<sup>2</sup> <https://jamanetwork.com/journals/jama/article-abstract/2782187>



## Conclusion

As is typical in health care, what seems like a good and simple idea is really not simple at all. If this legislation leads to higher utilization of care or to increase prices, it will mean higher insurance rates for all consumers, including those that cannot afford to promptly pay their medical bills. This is the vast majority of people.

To explain this, please consider what one physician told one of our members when she asked about the price of a procedure. To paraphrase, “You shouldn’t care what we’re charging because it will help you meet your maximum out-of-pocket faster and then everything is free after that.” Imagine the loophole this bill creates for a medical provider with that kind of motivation.

Furthermore, there are no restrictions on how much health care providers can charge for their services, outside of the efforts of health plans (employer, government, commercial or otherwise) to keep costs low on behalf of their enrollees. This legislation opens the door to a scheme where providers are encouraged to increase charges while maximizing patient discounts, making it seem like that prompt pay discount is a better deal for patients than it actually is. While you may not be concerned about health plans paying more under this scheme, our insurance company is ever mindful that we use our member’s money to pay claims, and what we don’t use goes back to them in premium rebates and rate reductions. CGHC has returned nearly \$105 million in premium to its members since 2019.

We urge you to take your time with this legislation and ensure important safeguards are incorporated to keep large loopholes from opening. Like you, we want to protect consumers, lower costs, and preserve the integrity of what insurance is intended to do - pool risk to keep everyone in the plan protected.

If you have questions, please do not hesitate to contact me at (608) 334-0624.