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To: The Senate Committee on Health
From: Sen. Dan Feyen
Re: Senate Bill 559

Hello, Chairman Testin and committee members. Thank you for taking the time today to hear testimony on Senate Bill 559.

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.



PATRICK SNYDER

STATE REPRESENTATIVE • 85th ASSEMBLY DISTRICT

Testimony in Support of Senate Bill 559

Senate Committee on Health

October 12th, 2021

Chairman Testin 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.



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TO: Members of the Senate Committee on Health

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

DATE: October 12, 2021

RE: Support Senate Bill 559 – 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 Senate Bill 559 and its companion in the Assembly. This simple legislation, which passed unanimously last session by the Assembly and was supported unanimously by this 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 legislation 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. Senate Bill 559 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.

Senate Bill 559'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.

Senate Committee Hears Prompt-Pay Discount Legislation, Questions Insurance Criticisms

February 27, 2020

Earlier this week, state lawmakers heard testimony from WHA Board Chair-elect and Prairie Ridge Health CEO John Russell, UW Health Director of Revenue Cycle Amy Armstrong and WHA Attorney Laura Leitch in support of Senate Bill 763. The legislation, which passed the state Assembly on a bipartisan voice vote, clarifies in Wisconsin law the ability for health care providers to offer promptpay discounts on cost-sharing amounts, such as coinsurance and deductibles owed to a provider.

State Sen. Dale Kooyenga (R-Brookfield) and Senator Jon Erpenbach (D-West Point) testified together in support of the legislation. Erpenbach discussed a constituent contact he received last March from a patient who was informed on a billing statement that the provider gives patients a 10% prompt-pay discount in other states where they operate, but not in Wisconsin. Erpenbach stated this legislation is intended to fix that discrepancy and “allow Wisconsinites to be able to have the same discounts offered in other states.”

“The intent of this bill is really quite simple. It’s a pro-consumer bill that also reduces collection costs for the provider,” said WHA’s Laura Leitch in opening remarks to the committee.

Leitch noted the federal statute that originally could have prohibited the discounts has been addressed over the years because the federal enforcement agency believed the statute could stand in the way of even beneficial arrangements, like a prompt-pay discount. The U.S. Department of Health and Human Services provided a safe harbor and then the HHS Office of Inspector General provided guidance recognizing specific safeguards that permitted a prompt pay discount program. This bill “aligns the state statute with the federal safeguards,” testified Leitch to the committee.

John Russell reminded the committee that out-of-pocket costs, like coinsurance and deductibles, are not a liability of the insurance company but become a responsibility and cost for the health care provider to collect.

“I think it’s important to note that once that process is done, those out-of-pocket costs are handed to [health care providers] and then we are working with the patients directly on collecting those dollars. The insurance companies are largely out of that process at that point,” Russell said. “It’s our financial counselors who are sitting down with patients, going through the process and coming up with a plan for how to pay.”

The Wisconsin Association of Health Plans testified “for information only” on the legislation but offered a list of state-specific amendments that do not align with federal guidance, including a requirement that discounts only be allowed after the patient hasn’t paid for 90 days. Other health insurance trade associations in Wisconsin have stayed neutral on the bill.

“Since this bill was heard in the Assembly, we reached out to providers on some of the proposals you have put forward and, specifically, the 90-day provision. The criticism that I’ve heard from providers is that this will actually encourage patients to pay late as opposed to promptly,” commented Sen. Pat Testin (R-Stevens Point), Chair of the Senate Health and Human Services Committee.

WEA Trust, a health insurance plan started by the Wisconsin Education Association Council in the 1970s, and Common Ground Cooperative, a health insurance cooperative started through federal taxpayer subsidies provided by the Affordable Care Act – and that reportedly has a 21.6% profit margin in the third quarter of 2019 and a medical loss ratio of 68% in 2018 – provided a litany of hypotheticals about their perceived impact of this legislation.

Lawmakers questioned their criticisms and assumptions.

“This doesn’t change the substance of the health insurance plan, like what the deductible is, what the amount charged is between the insurer and the provider, it really doesn’t change anything on the explanation of benefits,” responded Sen. Dale Kooyenga, lead author of the legislation.

Kooyenga went on to discuss the important balance Senate Bill 763 provides in creating appropriate safeguards that align with federal law, providing assurance to providers that, if the conditions are met, state law would not prohibit the discounts, and maintaining flexibility for providers and insurance companies to negotiate on terms of their contracts.

Kooyenga asked committee staff from the nonpartisan Legislative Council to inform the committee about whether provisions in the bill would limit the ability for a health insurance plan to negotiate terms in a contract regarding the health plan member's ability to access prompt-pay discounts from providers.

"If this bill passes, and you [health insurers] decide it is not in your best interests your next contract says for our patients, even though it is allowed, you are not allowed to offer prompt pay discounts, would that still be allowed by individual plans if they felt it was in the plan's best interest?" asked Kooyenga.

"The bill does not prohibit the plans from putting into future contracts that could dictate whether or not providers who participate in that plan would be able to. [Health plans] could essentially prohibit it," said Legislative Council Attorney Steven McCarthy

"From an industry perspective, I think it is in your best interest to have a more flexible and more marketable approach to providing services. If you guys think this is in your best interest in your plans and not allow your customers to have these discounts, then put it in your contract the next time you contract with a provider. But meanwhile, let the rest of Wisconsin provide these discounts to individuals who need them and are in a tight spot," said Kooyenga.

This story originally appeared in the [February 27, 2020 edition of WHA Newsletter](#)



School of Medicine
and Public Health
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Senate Committee on Health
Testimony provided by Abigail Abongwa
Vice President, Revenue Cycle
October 12, 2021
RE: Support for Senate Bill 559

Chairman Testin and members of the committee:

Thank you for this opportunity to appear before you today to share UW Health's support for Senate Bill 559 (SB559) related to allowing discounts for prompt payments for healthcare services. I appreciate your time and interest.

I have more than 20 years of experience working in healthcare administration. I currently serve as the Vice President, Revenue Cycle at UW Health with responsibility for the overall strategy, operations, and integration of our physician and hospital revenue cycle functions across our large and complex health system. I lead a team of over 900 employees with responsibility for financial clearance, registration and admissions, financial counseling, clinical documentation integrity, coding, health information management, billing, insurance follow up and denial management, customer service and patient revenue collection, and last, but certainly not least, revenue cycle training and quality assurance. All of the above responsibilities notwithstanding, my top revenue cycle priority, and my passion, lies in providing our patients with a remarkable financial experience.

Research has shown that a large medical bill or even the perception of a high dollar amount owed can feel overwhelming, and many patients consider putting off seeking treatment to avoid paying a high price. Unfortunately, the high price comes either way because patients who put off seeking medical care could end up in more costly emergent situations down the road. This cycle is far from ideal and is why I believe Senate Bill 559 can help. It will encourage patients to pay their out-of-pocket expenses, and if they do, will eliminate the hassle and expense of the collections process due to lack of payment.

According to a 2019 survey from the National Business Group on Health, the share of insured workers enrolled in high-deductible health plans at large employers reached 47% in 2019. This was up from 35% in 2018 and 28% in 2017. These high-deductible plans require patients to pay, in addition to co-pays and co-insurance, thousands of dollars in deductibles before insurance starts to pay some of their bills. The data also showed that while large employers still pay for about 70 percent of health care costs for their workforce in 2020, 30% remains as employee responsibility.

UW Health has recognized and is working hard to respond effectively to the financial state-of-affairs of many of our current and future patients. We believe as patients contribute a growing portion of our revenues; it is not only in their best interest but also in UW Health's best interest to find ways to make care affordable. Offering a prompt pay discount that bears a reasonable relationship to the amount of avoided collection costs serves to benefit patients and providers, creating a better balance between patient satisfaction and our organization's need to remain a viable business.

Finally, I'd like to extend a special note of thanks to the authors of SB559 for their thoughtful approach to clarifying state law so as to provide a clear path forward. This legislation removes the existing ambiguity that has been a source of concern for those of us working in Revenue Cycle. Please join us in supporting this bill.

Thank you for your consideration. I'd be happy to take questions from committee members.

Wisconsin Association of Health Plans

The Voice of Wisconsin's Community-Based Health Plans

Senate Bill 559

Senate Committee on Health

October 12, 2021

Chairman Testin, members of the Committee, thank you for the opportunity to testify today. My name is Tim Lundquist and I am the 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 Senate Bill 559, 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 Senate Bill 559 constitute a change in state policy that is likely to have unintended consequences. Health plans recommend modifications to Senate Bill 559 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 Senate Bill 559 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 Senate Bill 559 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 Senate Bill 559 achieves legislators' stated goals while reducing unintended consequences. I am happy to answer any questions you may have at this time.



October 12, 2021

Distributed as written testimony at the public hearing on October 12, 2021

Senator Patrick Testin, Chair and
Members, Senate Health Committee
P. O. BOX 7882
Madison, WI 53707-7882

Re: Senate Bill 559, 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 Senate Bill 559 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.

Senate Bill 559 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. Senate Bill 559 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:

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Testimony on Senate Bill 559

Melissa Duffy, Government Affairs and Advocacy

October 12, 2021

Common Ground Healthcare Cooperative has concerns about Senate Bill 559 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 their employer. Our mission is to put our members first when it comes to balancing cost and coverage, and we strive to reduce costs for our members wherever possible. When it comes to our health policy work, our goal is to help lawmakers understand the experience of consumers when considering legislation, in hopes that we can work with you to understand the implications of proposals coming from special interest groups.

With that mission in mind, we ask that you improve this legislation prior to passage to ensure that protections that are currently in place remain in the place.

Unintended Consequences

An Attorney General's opinion confirmed that health care providers may offer discounts "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, Senate Bill 559 significantly weakens the protections offered by Wis. Stats. 146.95 regardless of the Attorney General's interpretation.

Why? The bill's co-sponsorship memo cites concerns about out-of-pocket costs that are difficult for health care providers to collect from patients. There are two additional truths the legislature should understand about out-of-pocket costs. First, there are health plans available with high out-of-pockets and lower out-of-pockets, but there is no doubt that out-of-pockets costs and premiums are being driven higher by the cost of care. If you push one lever down (premiums), the other rises (cost-sharing), but prices are inflating both.

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 plan would love to lower deductibles across the board, high prices for medical services makes that impossible, so cost sharing must be utilized to keep premiums lower. As drafted, Senate Bill 559 opens a significant loophole in Wisconsin health laws that would enable a broad range of health providers to undermine health insurance plan designs which actuaries rely on to prevent overutilization of costly health care services when advising plans (employers and insurers) on rates and appropriate risk pooling. 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.

Other Suggestions

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 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 for an enrollee.
- 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.
- 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.
- “Prompt” is not defined in the bill, and the bill does not place requirements on providers to return overpayments to patients or insurers within any period of time.
- There are no anti-discrimination provisions in place to protect consumers.
- Providers should be 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.

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.

To exemplify 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 which is pool risk for everyone in the plan.

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