

Background

On July 19, 2023, Chairman Sanders (I-Vt.) released the *Primary Care and Health Workforce Expansion Act* and announced that the legislation would be considered by the Senate Health, Education, Labor & Pensions (HELP) Committee the following week. As the title suggests, the primary purpose of the legislation is to invest in healthcare workforce development, a goal EDPMA supports. Additionally, the legislation contained positive proposals related to the use of prior authorization by insurers. **However, the legislation proposed to help pay for these policies in part through a provision to prohibit office-based providers from charging a fee that exceeds the qualifying payment amount (QPA), a concept established by the No Surprises Act that has suffered from serious implementation flaws.** Specifically, tucked into Section 802 of the bill was the following language:

A health care provider and a facility are prohibited from—

[...]

(3) charging a fee that exceeds the qualifying payment amount, calculated in accordance with section 2799A1(a)(3)(E), for items and services provided in an office setting.

Issue

The way insurers currently calculate the QPA often results in almost bizarrely lowballed numbers with virtually no transparency for the provider to understand how that number was arrived at and no meaningful way to dispute it. Thus, EDPMA was extremely concerned that the legislation sought to double-down on the QPA concept.

EDPMA Response

EDPMA and other stakeholders immediately engaged in outreach to communicate these concerns. See our response issued on July 21, 2023, below:

As providers on the front lines of emergency care in this country, the Emergency Department Practice Management Association (EDPMA) is deeply troubled by the proposal to expand the use of the significantly flawed Qualified Payment Amount (QPA) benchmark to establish further government price controls in the commercial market for our fellow physicians and hospitals. The QPA was meant to establish a measure of patient cost sharing, not a benchmark for payment of providers.

Both the Administration's proposed implementation of the No Surprises Act (NSA) and now this legislative proposal distorts the intended purpose of the QPA in an attempt to force price controls in the commercial health insurance market. This is a very dangerous precedent founded on flawed and non-market-based methodology. It will add to the immense pressures providers already face in an environment of substantial health care workforce issues, higher costs, and eroding reimbursement across all payers. Patient care is already eroding and ultimately patients will pay the price with lower quality and less timely and accessible health care.

EDPMA strongly opposes the misuse of the QPA and urges the Committee to pursue sustainable policies that promote high quality, timely care that strengthen the health care system for our patients.



Andrea Brault, MD, FACEP, MMM, Chair of EDPMA

Outcome

On July 24, Chairman Sanders announced that the markup was canceled, and that consideration of the bill was postponed until early September, with the goal of arriving at a bipartisan product before then.

EDPMA Next Steps

EDPMA has been engaged in productive conversations with the Hill on improvements to NSA implementation and will continue that outreach. Additionally, between now and the rescheduled September markup, EDPMA will engage in additional outreach to ensure that all HELP Committee Members understand the serious problems with the QPA in its current application and, therefore, EDPMA's strong opposition to expanding its use in any way. ***Our goal will be to ensure that this provision is not included in the bill considered by the Committee in September.***