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Jessica,

Thank you for the opportunity to comment on the Insurance Department's proposal to address issues that arise when a consumer unexpectedly receives a balance bill from an out of network provider affiliated with a hospital. We also appreciated the opportunity to participate in the hearing the Department convened in the fall of 2015 to discuss the issue, where we were encouraged to hear from those who share our belief: consumers who unknowingly receive surprise balance bills from providers should not be caught in the middle of the resolution process.

Independence has long opposed the practice of surprise balance billing, and believes that addressing the issue involves various implicated stakeholders. We have recognized the role we can play to minimize instances of surprise balance billing and we have proactively worked to address the issue through our provider contracting and appeals processes. For example, language in our insurance contracts and standard managed care hospital agreement addresses circumstances of surprise balance billing and takes steps to ensure that Independence members are held harmless.

Based upon our experiences addressing circumstances of surprise balance billing, we offer the following guiding principles to inform any proposal to address the issue:

- A legislative or regulatory solution should only be triggered in the absence of applicable contract language or if the provider and carrier have not otherwise negotiated a settlement. As discussed, we have worked to address surprise balance billing in our provider contracts, and we feel strongly that our existing contractual language should be able to remain in place. We appreciate the Department's proposed efforts to allow existing approaches established by carriers and providers to continue.
- Carriers must be able to continue to provide real incentives to encourage network participation in order to manage costs. Any approach that establishes a rate of payment to an out of network provider should not destabilize networks, but instead encourage carriers and providers to enter into mutually beneficial contracts. The ideal solution should minimize incentives for providers – particularly those with a propensity to not participate in networks – to remain out of network. High value networks enable carriers to create health plans that may be distinguished for both cost and quality; consequently, the solution should encourage, and not discourage, network participation.
- While we believe that carriers have a responsibility to inform consumers about their health plan, we also believe that providers, particularly in-network facilities, are best situated to communicate to consumers the contract status of the providers the consumer may encounter when receiving services. Providers should be required to take an engaging, proactive approach to disclose to consumers the possibility that they may receive services from an out of network provider, prior to

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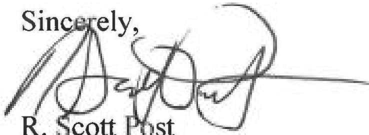
receiving services when feasible, and explain how the consumer can seek care from an in-network provider.

- More information regarding the surprise balance billing circumstances that the Department is working to address would likely help inform the solution. Specifically, it would be helpful to glean more information regarding provider types or certain geographies that incur surprise balance billing.

In addition to the guiding principles offered above, we welcome the opportunity to help shape the proposed solution as it proceeds through the process of refinement and adoption. Thank you for seeking our insight on this issue, and we look forward to working with you in the future.

Sincerely,



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