

**Written Testimony on House Bill 388**  
**Senate Insurance and Financial Institutions Committee**  
**December 7, 2020**  
**Holly Holtzen, AARP Ohio**

Good morning Chairman Hackett, Vice-Chair Hottinger, Ranking Member Craig, and distinguished members of the Senate Insurance and Financial Institutions committee. My name is Holly Holtzen and I serve as the State Director for AARP, Ohio. As you are aware, AARP, with 1.5 million members in Ohio, is a nonpartisan, nonprofit, nationwide organization that helps empower people to choose how they live as they age, strengthens communities, and fights for the issues that matter most to families, such as healthcare, employment, and income security, retirement planning, affordable utilities and protection from financial abuse.

AARP is here today to express our support for HB 388. This bill would protect consumers against surprise bills from out-of-network providers. Reliable access to quality health care is a top priority for AARP members in Ohio. We believe that no consumer should be stuck with a bill because they didn't have a choice or weren't given the information in order to make a choice. Yet, Ohio's current law allows surprise bills to exist and have saddled many of our friends and neighbors with unnecessary medical debt.

AARP's support for HB 388 centers on how consumers are protected. We are particularly interested in three areas of surprise billing protection in the bill: upfront transparency, limiting a consumer's liability when they encounter a surprise out-of-network situation, and holding a consumer harmless as the charges are resolved between providers and insurers. Or to put it another way, we are interested in the bill's attempt to protect consumers before, during, and after an episode of care.

Health coverage works best when consumers are informed, and a consumer is better informed when a health plan's benefits and terms are transparent and understandable. It should be incumbent on both insurers and providers to share information with individuals, to the extent possible, before they receive healthcare services.

HB 388 contains language regarding upfront transparency. While providers and insurers are not required to make disclosures to all consumers before a planned episode of care, the bill does put in place, when a consumer might want to receive care from an out-of-network provider, certain disclosures from providers. It also requires the patient to "affirmatively consent" to receive services from an out-of-network provider. These two elements are a positive step forward.

Consumers should not be responsible for services from an out-of-network provider if they did not agree to such services, regardless of where they receive care. Kaiser Family Foundation recently showed that nationally one in five adults had a surprise medical bill in the past two years and that in Ohio between 11 and 20% of emergency department visits resulted in at least one surprise bill.<sup>1</sup> HB 388 contains strong language that limits consumers' exposure in both emergency and inadvertent out-of-network situations. The bill strictly prevents a provider from charging a consumer the difference between in-network and out-of-network cost sharing amounts, which could be significant depending on an individual's coverage. Moreover, the bill prevents these charges in both out-of-network emergency care and inadvertent out-of-network care at an in-network facility.

What happens after an inadvertent out-of-network service or emergency service at an out-of-network facility can potentially impact a consumer. HB 388 takes the important step to prevent providers from seeking to recover anything beyond a patient's in-network cost sharing amount. Studies have shown that the majority of individuals who receive bills after a procedure pay them, even if they are not yet final or if there is uncertainty about the total.<sup>2</sup> For persons who cannot afford such surprise bills – four in 10 adults would either borrow, sell something, or not be able pay if faced with a \$400 emergency expense<sup>3</sup> – paying a bill would result in unnecessary medical debt.

HB 388 is silent to the role of the consumer in the bill resolution process. This silence along with the specific instructions in the bill about how a payment dispute is worked out between providers and insurers appears to hold the consumer harmless. If it does not, we ask that explicit language be included to protect consumers through the resolution of the bill between the provider and their insurer.

While we support HB 388 in its current form, we do believe that additional language could strengthen the bill and ensure that Ohioans don't find themselves dealing with a surprise bill. We will be submitting recommendations to the bill sponsor in the near future. Today, AARP urges state lawmakers to support the proposed legislation, protect consumers who suddenly find themselves in a situation where they need care from an out of network provider, and end the environment that leads to surprise billing.

<sup>1</sup> <https://jamanetwork.com/journals/jama/fullarticle/2760721>

<sup>2</sup> [https://advocacy.consumerreports.org/press\\_release/consumer-reports-survey-finds-nearly-one-third-of-privately-insured-americans-hit-with-surprise-medical-bills/](https://advocacy.consumerreports.org/press_release/consumer-reports-survey-finds-nearly-one-third-of-privately-insured-americans-hit-with-surprise-medical-bills/)

<sup>3</sup> <https://www.federalreserve.gov/publications/2018-economic-well-being-of-us-households-in-2017-dealing-with-unexpected-expenses.htm>