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To: Members of the HPC Cost Trends and Market Performance Committee and Quality Improvement and Patient Protection Committee

Re: Out of Network Billing

Thank you for inviting the Massachusetts Hospital Association (MHA) to participate in today's listening session. Unfortunately, due to scheduling conflicts, we are unable to have anyone join you in-person today. We look forward to working with you and HPC staff to help ensure the fullest understanding of this issue and its impact on patients.

MHA believes that patients and their families should have protection from the financial burdens of unexpected bills resulting from out of network emergency services or out of network services provided at an in network hospital.

Out of network billing raises concerns when a patient receives a bill for emergency care from an out of network provider or when the patient receives services at an in network facility but needs treatment from an out of network provider for services that were unexpected and/or where the patient doesn't traditionally choose the provider, such as anesthesiology, radiology or pathology. Patients are typically not aware of the network status of physicians who provide hospital based services, as these are generally not specialties that are chosen by patients under most circumstances. Insurance plans will often deny these services as out of network and pay nothing toward the bill or they may pay an in network rate leaving the patient a large balance bill. To our understanding, such circumstances are most often related to the use of narrow and limited networks.

Prior to moving forward with any recommendations, it is important to understand the magnitude of the problem in Massachusetts and the contributing roles of insurance plans and health care providers in order to target the most effective solutions. MHA is committed to working with the HPC and others interested in

these issues; over the next few weeks we plan to survey our members to learn more about how hospitals address these situations.

We'd also like to offer some initial perspectives related to this out of network billing:

- The National Association of Insurance Commissioners (NAIC) has developed a Model Act that includes transparency measures regarding health plan networks, in network hospitals and out of network providers. We urge the committees to review this document.
- Current Massachusetts laws offer some consumer protections, but because they are insurance laws, they are not applicable to ERISA plans, Medicare patients, Medicaid patients, out of state insurers, etc.
- Solutions that increase transparency, particularly in narrow network products could help patients to understand at the time they enroll in the product that they have a more limited network.
- Whenever possible, letting patients know in advance that there may be out of network providers involved in their care is important; however since many of these situations are unanticipated, providing a patient with a disclosure at the time of service may not be effective.
- Developing dispute resolution processes that remove the patient from the middle of the billing conundrum and require the plan and provider to work together is another potential approach that should be studied and understood to determine if it would be sound policy.

Thank you for your consideration and review of this issue. We look forward to sharing further information with you in the near future.