March 3, 2026

Hon. Andrea Stewart-Cousins
Senate Majority Leader
Room 907, LOB
Albany, NY 12247

Hon. Carl Heastie
Assembly Speaker
Room 932, LOB
Albany, NY 12248

re: Support for Executive Budget Surprise Billing Reforms — PPGG Part T
Request for Inclusion in One-House Budget Bills

Dear Leader Stewart-Cousins and Speaker Heastie:

On behalf of a broad group of organizations representing employers and health plans that are committed to ensuring access to quality and affordable health care for all New Yorkers, we are writing to express our support for the provision in the FY27 Executive Budget to reform the state's Surprise Billing Law (Part T PPGG) and for its inclusion in your respective one-house budget bills.

Enacted in 2014, New York's Surprise Billing Law was designed to protect consumers from out-of-network emergency and surprise bills and establish an Independent Dispute Resolution (IDR) process to resolve payment disputes between health plans and providers. While the law has shielded millions of patients from unexpected medical costs, persistent flaws in IDR process are undermining the law's ability to lower health care costs for employers and consumers.

Under current law, an independent arbiter will determine whether the provider's fee or the plan's payment is more reasonable. In determining the comparison, the arbiter will consider how closely each side's proposed amount is in relation to what is charged for similar services in the same specialty in the same geographical area. Current law requires arbiters to consider the 80th percentile of billed charges

when determining the final payment amount, which tend to be significantly higher than the negotiated rates that insurers pay for in-network care or what Medicare reimburses.

In one recent case, a health plan went through arbitration where the provider was inexplicably awarded $315,848 for a scheduled surgery that had been approved by the plan, with an out-of-network payment of $7,239. Despite the surgery being pre-authorized, the provider billed it as an emergency service and submitted the claim for IDR. The arbiter sided with the provider, requiring $308,575 in additional payment without any justification for the drastic 4,262% hike. The process is so skewed by outlier providers that payment for a laparoscopic appendectomy can jump from $4,404 in Queens to $25,000 on Long Island, even if the quality, acuity, or complexity of the care provided is comparable.

Directing arbiters to focus on 80th percentile of charges drives costs higher. A 2019 report by the Department of Financial Services examining the IDR process found that the average payment amount decided through arbitration was 8% higher than the 80th percentile of charges, and a September 2022 issue of *Health Affairs* found that the New York arbitration approach increased payments for nonemergency out-of-network services by 24%. The escalating payment amounts have resulted in a nearly 10-fold increase in the use of IDR, as the number of cases in New York has grown from 1,126 in 2020 to over 10,000 in 2024, rewarding providers for overusing the process. These inflated awards ripple through the system, raising premiums and out-of-pocket costs for individuals, employers and labor unions.

The Executive Budget proposes a series of thoughtful and targeted reforms, redefining the benchmark for payment disputes from the 80th percentile to the 50th and establishing a cap on payments to no greater than the 80th percentile. Establishing more reasonable payments will protect consumers and employers from out-of-network providers charging excessive prices that increase the cost of coverage and is an important step to make health care more affordable for New Yorkers.

For all these reasons, we respectfully urge the inclusion of changes to New York's Surprise Billing Law in your one-house budget proposals and in the final enacted budget.

Sincerely,

American Council of Engineering Companies of New York
Associated Builders and Contractors Empire State
Association of General Contractors NYS
Buffalo Niagara Manufacturing Alliance
Business Council of NYS
Food Industry Alliance of NYS
Local Business Relief Coalition
National Association of Benefits and Insurance Professionals-NYS
National Federation of Independent Businesses-NY
NYC Black Chamber of Commerce
New York Health Plan Association
Northeast Dairy Foods & Suppliers Associations
NYS Conference of Blue Cross and Blue Sheild Plans
Small Business Majority
Upstate United