



May 24, 2023

The Honorable Donna Bailey, Senate Chair
The Honorable Anne Perry, House Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, Maine 04333-0100

Re: L.D. 1399, “An Act to Improve State Oversight of Proposed Health Care Entity Transactions” and L.D. 1708 “An Act to Address Anticompetitive Terms in Health Insurance Carrier and Health Care Provider Contracts”

Dear Senator Bailey, Representative Perry, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

My name is Denise McDonough, and I am the President of Anthem Blue Cross and Blue Shield in South Portland, Maine. I regret that I could not attend the public hearing on these bills, but I wanted to share with you why I feel these bills are so important and express my strong support for ***L.D. 1399, “An Act to Improve State Oversight of Proposed Health Care Entity Transactions”*** and ***L.D. 1708, “An Act to Address Anticompetitive Terms in Health Insurance Carrier and Health Care Provider Contracts”***.

The health care landscape in Maine is extremely concentrated and dominated by two large hospital systems. There are thirty-six hospitals in Maine and 19, or just over half, of those hospitals in Maine are owned by just two hospital systems: MaineHealth owns nine hospitals in Maine (and one in New Hampshire) while Northern Light owns ten hospitals. Although these two systems own approximately 53% of the hospitals in Maine, they also represent 68% of our spending on hospital services. Furthermore, these two systems also own a number of physician practices. This means they are in a position of extreme strength and hold significant leverage when negotiating contracts with health insurers, particularly when combined with network adequacy requirements.

As this Committee knows, health insurers such as Anthem must meet network adequacy requirements. Providers know this too, and use it as leverage in their negotiations with carriers in the following ways:

- Demanding exorbitant rate increases;
- Requiring favorable positions in a carrier’s network, such as placement in a higher tier to the exclusion of competitors, regardless of cost or quality;
- Insisting on the same preferential treatment for all owned hospitals; and
- Threatening to terminate all providers in the system when a contract for only one hospital is the subject of negotiations.

These are not just hypothetical examples—we have seen this play out several times over the past few years.

Last year, however, we saw the introduction of a new tactic—attempting to use our members, and their patients, as pawns. Last year, while the parties were engaged in a mutually agreed upon mediation, MaineHealth publicly announced its intention to terminate Maine Medical Center’s participation in the Anthem network. This announcement, complete with a press conference, occurred nearly nine months before the termination would take effect and more than two years before the expiration of the contract in place at the time. As noted in my testimony before this Committee on April 28, 2022, MaineHealth sought to make the threat of terminating Maine Medical Center public for one reason—to create chaos and confusion in the marketplace, and to attempt to scare Anthem members in an effort to gain more leverage in the negotiations.

It is important to remember that health insurers are regulated by the Bureau of Insurance. Our rates and business practices are regulated and subject to review by the Bureau of Insurance. We are subject to market conduct examinations to ensure that we are compliant with the requirements of Maine law and rules adopted by the Bureau of Insurance.

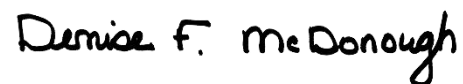
Providers are not subject to that same level of oversight—there is no regulatory body with oversight of the business practices of a provider, what providers charge, or to ensure that patients are not overcharged. There is no process comparable to a market conduct examination for providers.

Mainers are experiencing an increase in health care cost trends that is not sustainable. Our customers and members depend on us to help them access the services they need while maintaining affordability.

We believe these bills will protect health care consumers in two important ways—by providing the Attorney General’s office with additional oversight authority with respect to mergers and acquisitions, should it wish or need to exercise that authority (L.D. 1399) and by ensuring that provider contracts do not include provisions that are detrimental to the interests of members and employers (L.D. 1708).

Thank you for your consideration and I ask you to support L.D. 1399 and L.D. 1708.

Sincerely,

A handwritten signature in black ink that reads "Denise F. McDonough". The signature is written in a cursive, slightly stylized font.

Denise McDonough, President
Anthem Health Plans of Maine, Inc.