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**A4032**  
**Revising Out Of Network Arbitration Process**  
**Assembly Financial Institutions & Insurances**  
**June 2, 2022**

Position: OPPOSED

Chairman McKeon, Vice-Chairman Schaer and Members of the Committee,

My name is Laura Waddell, Health Care Program Director for New Jersey Citizen Action, a statewide coalition and grassroots organization that fights for social, racial, and economic justice for all. I offer this testimony in opposition to A4032 on behalf of the New Jersey for Health Care Coalition and New Jersey Citizen Action, as well as three other organizations--the New Jersey Health Care Quality Institute, New Jersey Appleseed Public Interest Law Center and New Jersey Policy Perspective ---that, working independently and with other members of the Healthcare Coalition, were actively involved in supporting the Out-of-Network Consumer Protection and Accountability Act for much of the 10-year legislative process that eventually led to its enactment in June 2018.

Getting that legislation passed was a hard-fought effort involving many stakeholders but, in the end, we achieved a landmark law that protects consumers from being blindsided by surprise out-of-network bills. The chief shortcoming of that law, one that was unavoidable, was that it covered only state-regulated health care plans, leaving the majority of New Jerseyans unprotected from surprise medical bills for out-of-network care. Fortunately, the federal No Surprises Act, which was passed by the U.S. Congress in 2020 and took effect in January 2022, fixed that problem and now everyone in New Jersey, no matter their insurance plan, has such protection, with most people covered by the federal law.

Like our state law, the No Surprises Act banned balance billing and set up a baseball type arbitration system to resolve disputes between carriers and providers over fair compensation for their services. But it differs from our state law in several respects and any legislation to amend the New Jersey law at this point should be to harmonize it with the new federal law, not add additional points of difference that will only increase consumer and provider confusion by making an already complex situation – with two, separate, parallel arbitration systems ---even more complicated. This legislation would change the law that governs the roughly 1.8 million New Jersey residents insured under a state-regulated plan, moving it further apart from the federal law that governs everyone else. It is in the best interests of the State of New Jersey and its residents and health care system to simplify and streamline the process by aligning state and federal procedures.

On top of that, any effort to amend the NJ law is premature given that the Department of Banking & Insurance, the Department of Health and the Board of Medical Examiners have all yet to adopt regulations to implement and enforce the New Jersey law or enforce the federal one. People are confused already about both laws and there is no coordinated, one-stop effort yet by the state to answer their questions and help them navigate a surprise medical bill that could bankrupt them. Accordingly, we ask that you hold this legislation until it can be determined how the three relevant state agencies intend to move forward on their implementation and enforcement plans of both the state and the federal law and how further changes will impact those plans. If, however, you determine that these changes are necessary to better protect New Jersey consumers from surprise medical bills, we request that implementation be delayed until it can be incorporated into the much-needed state agency implementation and enforcement plans. We also ask that more time be provided for our state agencies to implement the changes and create resources to support consumers and enforce the laws.

We therefore respectfully request that, at the very least, the date on which it is to take effect be conditioned on the Department of Banking & Insurance, in coordination with the Department of Health and the Board of Medical Examiners adopting final regulations concerning the state arbitration process, disclosure requirements, enforcement processes, and consumer supports to ensure that both the state and federal surprise billing acts are being implemented to protect consumers.

Thank you very much for your consideration.

Respectfully submitted,

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