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TO: Members of the Wisconsin State Legislature

**FROM: Eric Borgerding, President/CEO
Kyle O'Brien, Senior Vice President Government Relations**

DATE: December 1, 2020

RE: Hospitals Support Insurance Provisions in Governor Evers' COVID Proposal, Reacts to Health Insurer's Opposition Memo

As hospitals have, unfortunately, become both the frontline of battle and the last line of defense to COVID-19, their perspective is important on public policies impacting patient insurance coverage and costs. As you consider the health care coverage proposals included in LRB 6522/1 from Governor Evers or other proposals developed by lawmakers in the Assembly and the Senate, we ask you to understand and support the following perspective from our state's hospitals.

During this challenging time, hospitals are doing everything they can to ensure all Wisconsin residents have access to high quality care. At the same time, hospital and health system staff resources are stretched thin. For these reasons, we support the temporary policies described in the Governor's proposed legislation designed to ensure patients can access care during the pandemic and that providers have tools at their disposal to serve patients. Practice, policy and payment must all align for a resource like telehealth to be used to treat patients – if one of those elements is missing it will become a barrier for providers to deliver care and a patient's ability to access care.

We understand you received a communication from organizations representing health insurance companies. In response, we wanted to share the perspectives of health care providers.

Out-of-Network Billing

We recognize that the pandemic has brought some unique circumstances for the way our patients traditionally receive care. Every hospital is working tirelessly to save lives, including coordinating with other hospitals to identify available capacity and creating new ways to care for patients (e.g. telehealth, etc.) As a result, there may be special circumstances that result in a patient obtaining care from a provider with whom their insurer does not contract. Insurers often require patients to pay higher costs, or do not cover the costs, for services a patient obtains from providers that health plans choose not to contract with and are thus considered out-of-network services.

The issue of out-of-network billing under normal circumstances is complex and deserves a more substantial conversation than interest group memos can allow. Outside of the context of the pandemic, WHA would oppose the language related to out-of-network billing that is included in LRB 6522/1. ***However, given the conditions caused by this emergency and in the interest of our patients, WHA does not oppose these provisions.***

For ease of administration and for the time and purposes of this emergency, we have not, and will not, oppose the creation of an out-of-network benchmark rate. We recognize the bill limits these provisions in both scope and duration. We appreciate and support that the bill increases the rate from 225% of Medicare in 2019 Act 185 to 250% of Medicare in the Governor's proposal. However, we remain opposed to a benchmark rate as a long-term public policy to remedy

billing conflicts between an insured patient, health insurer and a provider who the patient's health insurer has not contracted with.

Health insurers have indicated that a benchmark rate of 250% of the Medicare rate is too high. We disagree. The health insurers compare Medicare rates in Wisconsin to other states, which is not a valid comparison to make. The concerns about inequitable Medicare payments and how Medicare sets its rates geographically are widely known. Simply, Medicare rates are low in Wisconsin compared to other states.

The health insurers propose using each respective plan's median in-network rate for a specific geographic region. This black box approach provides no transparency to the provider nor to the state Office of the Commissioner of Insurance. WHA strongly opposes requiring out-of-network providers to accept a payment derived from an unknown data source.

Telehealth Parity

WHA has long supported parity for telehealth services. Telehealth services have proven to be critical care access points during the pandemic when the public is practicing social distancing and staying home. As we have learned over the past few months, when people defer needed care, health outcomes can worsen significantly. Having access to telehealth services can mitigate these negative outcomes. Telemedicine allows patients to access care safely and continuously with their health care providers.

While we appreciate that many health insurers worked with providers and patients to implement telehealth coverage during the pandemic, there has been concern and uncertainty as to whether those flexibilities would continue. Just as the legislature enacted bipartisan reforms in 2019 to the Wisconsin Medicaid program ensuring coverage parity for telehealth in the Medicaid program to help ensure access to health care services, ***WHA supports the provisions in LRB 6522/1 to establish telehealth coverage parity in the commercial health insurance market through 2021 to help ensure patient access to health care services during the COVID pandemic.***

The proposal should be strengthened by specifying that telehealth services should be allowed without unnecessary and administratively burdensome delays such as through prior authorization processes. Prior authorization processes may delay care for patients and create added administrative processes when provider resources are already over-burdened.

Finally, we've learned that separate networks for telehealth providers create confusion for patients and may cause disruption or delays in care. We recommend the proposal specify that insurers may not require patients use a separate network of providers, but rather a patient can still access telehealth services from their current or a trusted provider.

Prohibition on Cost-sharing and Prior Authorization for Testing, Diagnosis, Treatment, Prescriptions, and Vaccines Related to COVID-19

Act 185 mandated no cost sharing for COVID-19 testing for all health plans regulated by the state. LRB 6522/1 furthers these provisions by requiring coverage and no cost-sharing for diagnosis and treatment of COVID-19 (in addition to testing), including prescription drugs, and vaccine administration, so long as the health plan generally covers those services. The bill also extends these provisions through December 31, 2021. WHA supports these provisions. While the emergency may end before 2022 when similar federal provisions are set to expire, it is likely patient needs for care and treatment of COVID-19 will extend beyond the official end date of the emergency. ***Therefore, WHA supports extending these provisions through December 31, 2021 to ensure ongoing care and treatment for those needing testing, treatment or vaccination for COVID-19.***