Presented by Christin E. Deacon

Chairman, Ranking Member, and distinguished members of the committee,

Thank you for the opportunity to testify today on the critical issue of transparency in healthcare. Imagine, if you will, you are the CFO of a company where you give the company credit card to your vendors and suppliers. Instead of receiving an itemized statement at the end of the month, you are handed a sheet of paper with one number—no receipts, no details, just the total amount owed. No employer would ever allow such a practice. Yet, this is exactly what happens in our healthcare system today. Employers hand over the company credit card to Blue Cross Blue Shield, Aetna, United, Cigna, Optum and CVS, allowing them to pledge company dollars to a healthcare system that can charge whatever they want, however they want, simply because they can.

Where are the checks and balances in healthcare? Balance necessarily requires equal access to information, and that is why we are here today.

Transparency. Or rather, the lack of transparency facing employers and unions that are responsible for purchasing healthcare for over 160 million Americans.

You likely know the statistics and the alarming rate at which healthcare costs are growing. But I know the people behind these statistics. As former administrator for the State of New Jersey employee health plan I know first-hand how the lack of transparency impacts our teachers, firemen, police officers, and public sector workers. Sadly, this year in New Jersey over 200 school positions will be eliminated due to budget constraints, driven in large part by the cost of health benefits.[1]

ERISA, which governs most employer sponsored health plans in the country, is intended to protect plan participants and beneficiaries by mandating that plan sponsors act as fiduciaries. When employers lack access to their own data and transparent information about the cost and quality of care, they are unable to fulfill ERISA's promise.

Let me share three examples to illustrate the magnitude of this issue:

> At Mayo Clinic in Jacksonville, if you were to use your Federal Employee Health Benefit BCBS card for an arthrocentesis procedure it would cost you and the federal government $2,516.[2] If you were to pay cash for the same procedure, you would pay just $392.60. That is six times more than the cash rate. At University of Pennsylvania Hospital, the cash price

[1] https://www.nj.com/education/2024/07/nj-schools-are-cutting-hundreds-of-jobs-this-summer-heres-why.html

[2] https://turquoise.health/health_systems/mayo-clinic/services/?q=Arthrocentesis+%28drainage%29+of+joint&service_name=arthrocentesis-drainage-of-joint

for an ACL repair is $9,523.36,[3] but if you are a service member covered by TRICARE, your price is $37,489.74, that is 294% more than the cash rate.

Or consider when a third-party administrator, or TPA, pays twice for a claim in error, or pays for an improperly upcoded claim. Because TPAs act as middlemen, similar to a PBM, and uses the employer's funds to pay claims, they bear none of the risk. And when a TPA pays the inflated or improper bill with the employer or unions' funds, there is no obligation for the TPA to recover those payments. If, and I emphasize IF, the employer is lucky enough to benefit from an attempted recovery, it will be less the TPA's savings fee, ranging anywhere from 25-50%. This is the ultimate fox guarding the hen house.

But TPA's are not always "overpaying;" in fact, quite often they are paying providers one sum, and then charging the employer many times more for the same claim. In several recently unsealed court documents it was revealed that an employer sponsored health plan paid $4,078,652.42 on a claim, but the provider only received $875,809.76.[4] What accounted for the difference? Cigna took $2,524,898.98 in fees, and their subcontractor Multiplan took $677,943.68. The fees were 2.9 times the provider's payment.

These examples are the tip of the iceberg in terms of the waste, abuse and inefficiencies in the current market, driven in large part by lack of transparency and meaningful access to data. Though we may increasingly be able to pull up the hospital prices, and carrier negotiated rates, unless and until employers are able to have access to run their own numbers, identifying this type of conduct will remain elusive to employers and unions.

If we expect employers and unions to exert any type of market forces to reign in healthcare costs, we must empower them with actional data and transparent pricing. The company credit card has been abused for too long by the PBMs, TPAs and other industry players. It should not be unreasonable to demand for receipts of payment, itemized statements, and the ability to protect their members. This is what S3548 uniquely accomplishes, in a superior manner, in my opinion to the Lower Cost More Transparency Act. Federal lawmakers must rebalance the information asymmetry to empower employer purchasers and unions to push back against egregious pricing, unfair billing practices, gross overreach, and profiteering. This will help protect the American workers' paychecks and ensure a fairer, more accountable healthcare system.

Thank you.

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[3] https://turquoise.health/health_systems/university-of-pennsylvania-health-system/service_category/musculoskeletal/

[4] https://dockets.justia.com/docket/california/cacdce/8:2020cv00269/772742
See attached TML Recovery Services, Ltd. unsealed exhibit