



## COLLEGE of AMERICAN PATHOLOGISTS

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July 14, 2022

The Honorable Richard Neal  
Chairman  
House Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Kevin Brady  
Ranking Member  
House Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady,

On behalf of the College of American Pathologists (CAP), I applaud your current work with the Federal Trade Commission (FTC) to investigate deceptive and misleading health plan marketing practices. As you know, patients need and deserve high-quality health care and coverage, especially as we continue to fight COVID-19 and its longer-term health consequences. As the world's largest organization of board-certified pathologists and leading provider of laboratory accreditation and proficiency testing programs, the CAP serves patients, pathologists, and the public by fostering and advocating excellence in the practice of pathology and laboratory medicine worldwide. Unfortunately, from this perspective, we are experiencing instances of improper practices by insurers, which has direct implications for patient care and coverage.

To start, even with passage of federal legislation to address surprise billing, health insurance plans are increasingly relying on narrow and often inadequate networks of contracted physicians, hospitals, and other providers to shift medically necessary health care costs onto their enrollees. For example, although it has made changes to the program, in 2021 UnitedHealthcare tried to roll out a "benefit design" that requires laboratories to meet UnitedHealthcare-determined efficiency and quality requirements in order to become a "Designated Diagnostic Provider" or DDP (see Attachment 1). Facilities that did not meet these requirements (non-DDP facilities) would "remain in network," but UnitedHealthcare would not cover outpatient diagnostic laboratory services provided by these facilities, leaving patients "liable for charges." Even with recent modifications, the CAP believes UnitedHealthcare policies that subject patients to an increased payment for services received at in-network, but non-DDP facilities, is counter to efforts to protect patients and eliminate surprise medical bills.

Additionally, other health insurance plans are slashing reimbursement across the board – or ceasing reimbursement for critical services altogether – without any individual physician/practice consideration, leaving many pathologists in serious financial jeopardy across the nation. Blanket rate cuts that lower reimbursement below the cost to provide the services may benefit a select few laboratories and cut costs for the payer, but they threaten the financial viability of many smaller and/or rural laboratories and pathology practices. And many pathologists have little leverage or ability to opt out-of-networks with powerful insurers because of consolidation and insurer control in their health systems and communities. Further, [as the American Medical Association recently wrote to the FTC and Department of Justice](#), "mergers of market power health insurers tend to result in lower than competitive payments to health care providers, but there is no evidence the cost savings are passed through to consumers in the form of lower premiums."

For example, Anthem persists in offering unacceptable take-it-or-leave it contracts to our members (see Attachment 2) and we continue to hear about issues with nonpayment despite

College of American Pathologists  
1001 G Street, NW, Suite 425W  
Washington, DC 20001  
202-354-7100



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earlier media attention on the issue<sup>1</sup>. Cigna, meanwhile, threatens nonpayment for important laboratory oversight services (see Attachment 3). Hindering access to high-quality pathology services through reduced rates or lack of payment for pathology and laboratory services, which adversely affects patient diagnosis, treatment, and outcomes. Now more than ever, patients and their treating physicians – including those in hospitals and rural settings – are relying on the expertise of pathologists and the availability of appropriate testing.

It is clear that the COVID-19 pandemic has shaken and challenged every health care system and organization. What has remained the same for health care providers is our unwavering commitment to care for our patients and communities. Pandemic or not, pathologists are guiding hospitals and health systems to make decisions that ensure testing and diagnostic accuracy, improve patient care for better patient outcomes, mitigate risks, and ensure quality. Yet we are increasingly concerned about insurer-imposed reimbursement policies that inappropriately value pathology services, limit access to timely and appropriate services, and threaten the ability of pathologists to provide care for patients. Further, insurers' increasing adoption of abusive practices and/or reliance on narrow/inadequate networks results in adverse consequences for access to quality patient care to benefit the financial interest of the payer.

Thank you for your leadership in this area and your work towards ensuring high-quality health care and coverage for all Americans. If you have any questions, concerns, or need additional information, please do not hesitate to contact Darren Fenwick at [dfenwic@cap.org](mailto:dfenwic@cap.org).

Sincerely,

Emily E. Volk MD, FCAP  
President  
College of American Pathologists

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<sup>1</sup> <https://www.beckersasc.com/asc-coding-billing-and-collections/insurer-under-fire-for-millions-in-unpaid-claims.html>