



**Testimony of Denise F. McDonough
to the
Joint Standing Committee on Insurance and Financial Services**

April 28, 2022

Good morning, Senator Sanborn, Representative Tepler, and distinguished members of the Health Coverage, Insurance, and Financial Services Committee. My name is Denise McDonough, and I am the President of Anthem Blue Cross and Blue Shield in Maine, a domestic health insurer licensed by the Maine Bureau of Insurance and headquartered in South Portland, Maine, employing nearly 650 Mainers. Our plan has been serving the people of Maine for 84 years, and all of us at Anthem Blue Cross and Blue Shield in Maine are deeply committed to providing our 300,000 members access to high quality, affordable health care.

I would like to thank you for the opportunity to address the committee today and share our perspective on this matter. 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. Anthem and its provider partners have a collective responsibility to achieve to this goal, and we remain committed to the mediation process that began last fall, and to resolving the current issues with MaineHealth.

At the outset, let me acknowledge that we are not perfect. We have had operational issues that have resulted in provider dissatisfaction. We have been working extremely hard to address those issues, and we have made significant progress in doing so. We created a dedicated line for Maine providers, and providers in Maine should call us at that number if they need assistance with claims or other issues. We are committed to resolving all of these issues, and to regaining the trust and confidence of providers.

MaineHealth has attempted to use those operational issues to its advantage in the media by suggesting that we owe them \$70 million in unpaid claims. This is misleading. Anthem pays MaineHealth on a prospective basis, meaning we pay MaineHealth in advance each week based on anticipated volume, and reconcile those payments at the end of the year based upon the actual claims submitted. Therefore, any claims payment issues that might exist do not have a significant financial impact on MaineHealth's cash flow, as it receives a fixed amount each week. As a result, MaineHealth has been largely unaffected by any claims payment issues.

The real issue between Anthem and MaineHealth is the result of Anthem having discovered that MaineHealth is materially overcharging Anthem and its members.

A hospital chargemaster is a hospital's price list for its products, procedures, and services—everything from surgeries and patient rooms to prescription drugs and supplies. In 2018, Anthem discovered that MaineHealth had been overbilling for anesthesia and operating room

services through increases to its chargemaster that were not authorized under our contract. I will refer to this in my testimony as “Chargemaster 1.” After many months of denials, and refusals to provide data that it was required to provide under the contract, MaineHealth eventually acknowledged the overcharges and refunded nearly \$20 million to our customers. As a result of Anthem’s efforts, we believe this may also have resulted in millions of dollars in refunds to other carriers in Maine and their customers.

In 2020, Anthem identified additional billing improprieties, including that Maine Medical Center has been overcharging our members for drugs and for room and board, the combination of which resulted in an overcharge of more than \$50 million. I will refer to this as “Chargemaster 2.” Given that Anthem represents only one-third of the market, the overcharges across the Maine market could be as much as \$160 million or more—and it is important to note that this estimate does not include any potential overcharges of the uninsured.

We firmly believe that we are correct about the overcharges in Chargemaster 2, just as we were about the overcharges in Chargemaster 1 that resulted in refunds. When MaineHealth disagreed with our finding, we asked it to provide us with the data to support its position. MaineHealth has repeatedly refused to provide any data to justify or explain these increases. As a result, we implemented an offset or reduction to adjust for the overcharges going forward beginning August 1, 2021. In October of 2021, we entered into mediation with MaineHealth to try resolve Chargemaster 2 and other issues.

Because we have been attempting to resolve these issues since last fall through mediation, we were surprised and disappointed when, in March of this year, MaineHealth notified us of its intent to pull Maine Medical Center out of our network on January 1, 2023. Even so, we continued in our efforts to resolve the issues with MaineHealth through mediation. We even agreed to a thirty-day period during which the two companies would focus on resetting our relationship in a more collaborative manner and finding common ground. We were shocked when, in the midst of that 30-day period and the ongoing mediation, MaineHealth decided to publicly announce its intent to pull Maine Medical Center out of the Anthem network on January 1, 2023.

MaineHealth has made this dispute public in order to create chaos and confusion, and to scare Anthem members in order to gain more leverage in the ongoing mediation. MaineHealth is able to do this because it is a monopoly that provides essential healthcare services, and one that is largely unregulated. While Anthem’s individual and small group rates and business practices are regulated and overseen by the Bureau of Insurance, no one is regulating the prices or business practices of large healthcare systems such as MaineHealth.

As this Committee is aware, Anthem is subject to network adequacy requirements. MaineHealth knows this too. MaineHealth is seeking to force Anthem into acquiescing to its demands and to use our members, and its patients, as pawns in its negotiation by choosing to publicize its decision many months before it would occur, rather than committing itself to mediating in good faith.

Since making this dispute public, MaineHealth is now making new and unprecedented demands that were not previously raised in the mediation, including:

- renegotiation of the existing contract that is in place through September 30, 2024;
- significant rate increases for all MaineHealth hospitals, in addition to the already above-market rate increases that MaineHealth will receive under the current contract;
- the ability to bill services through any MaineHealth entity no matter where the services were actually rendered; and
- a prohibition on Anthem implementing any policies for the protection of its members.

By way of example, MaineHealth currently bills for certain services rendered at Mid Coast Hospital as though they had been rendered at the more expensive Maine Medical Center. This has resulted in Maine consumers paying 40% more than if they had been billed as required through Mid Coast. One of MaineHealth's new contract demands would allow MaineHealth to continue with this practice, and Anthem would be unable to stop it. If Anthem agrees to MaineHealth's demands, the resulting contract would be extremely harmful to Maine consumers and businesses and in fact, be the worst (*i.e.*, most consumer unfriendly) contract in the 14 states in which Anthem operates.

We believe these new demands, which had not been raised in nearly six months of mediation, are the first step toward MaineHealth threatening to pull all MaineHealth providers out of our network. Unfortunately, this is a tactic we have seen them use before.

MaineHealth can make these demands because it has achieved monopoly status, owning most of the hospitals in the southern half of the state. This gives it enormous leverage because, as noted before, MaineHealth is well aware of the network adequacy standards with which health insurers must comply. We are charged with protecting our consumers by maintaining affordability, but even the state's largest carrier cannot negotiate effectively on behalf of our members with a system as large as MaineHealth. Because of its size MaineHealth can – and has – insisted on above-market rate increases that result in strong financial results for Maine Medical Center that are out of step with other nonprofit hospitals in Maine. Those high costs are ultimately paid by Maine consumers in the form of higher premiums. This also results in fewer health care dollars available for other smaller hospitals that have greater need.

This is a long-term problem which, if not addressed, will continue to result in healthcare cost increases that far exceed general inflation, making health care and health insurance increasingly unaffordable for Maine's citizens.

So where do we go from here? We at Anthem remain committed to trying to resolve these issues and we hope that MaineHealth will partner with us to reaffirm a mutual commitment to the customers we serve, and to work with us to ensure both access **and** affordability. But we are also engaged in contingency planning to prepare for the possibility that MaineHealth makes good on its threat to pull Maine Medical Center from our network. Either way, we are committed to ensuring that our customers continue to have access to the quality healthcare that they need.

Thank you for the opportunity to share these comments, and I'd be happy to answer any questions you might have.