

SURPRISE MEDICAL BILLING

Introduction

“Surprise medical billing” is a phrase used to describe a bill received from a healthcare provider outside of your health insurer’s network. For example, if you have insurance and seek care at a healthcare facility listed as in-network but are treated by a physician that is considered out-of-network by your insurer, you may receive a surprise bill.

“Balance billing” happens when providers bill patients for charges not covered by their insurer, as shown in the example below.

BALANCE BILLING EXAMPLE:	
Neonatal visit in the Intensive Care Unit (ICU)	
Charge=\$2,700; Allowed Amount=\$1,900	
In-network scenario:	Out-of-network scenario:
<ul style="list-style-type: none"> ○ Insurer cover 80% of allowed amount = \$1,520 ○ Family pays 20% of allowed in cost sharing = \$380 	<ul style="list-style-type: none"> ○ Insurer covers 60% of allowed amount = \$1,140 ○ Family pays 40% of allowed in cost sharing = \$760 ○ Family pays balance between the allowed and charge = \$800 ○ Total paid by family = \$1,560 (\$760 + \$800)

Among those surveyed that received a surprise bill, charges were most often for:

53%
Physician services

51%
Laboratory tests

43%
Hospitals or health care facility charges

35%
Imaging services

29%
Prescription drugs

Source: NORC at University of Chicago.

The scope of surprise medical billing has increasingly become a concern of consumers and policymakers alike. A 2018 national survey found that 57 percent of American adults have been surprised by medical bills, and 20 percent of respondents specified that their surprise bills

resulted from seeing an out-of-network doctor.ⁱ The types of charges cited by respondents range from physician services to prescription drugs.

State Efforts to Address Surprise Billing

A study from *The Commonwealth Foundation* identifies nine states as having comprehensive protections against surprise billing, including California, Connecticut, Florida, Illinois, Maryland, New Hampshire, New Jersey, New York, and Oregon. In order to be considered “comprehensive,” the state laws had to meet the following criteria:ⁱⁱ

- Extend protections to both emergency department and in-network hospital settings;
- Apply laws to all types of insurance, including HMOs and PPOs;
- Protect consumers by holding them harmless from extra provider charges and prohibiting providers from balance billing; and
- Adopt an adequate payment rate or arbitration process to resolve payment disputes between providers and insurers.

The study identified 16 additional states which offer partial protections against balance billing (see footnote below).¹

Congressional Efforts to Address Surprise Billing

Four proposals to establish consumer protections against surprise billing were released during the 115th Congress.² A bipartisan bill includes three key components:^{iii, iv}

- Out-of-network providers in out-of-network facilities would be prohibited from balance billing in emergency situations but could seek additional payments from a patient’s insurer based on formulas established by state regulation or through a federal formula set in the legislation.

¹ States with partial consumer protections include Arizona, Colorado, Delaware, Indiana, Iowa, Maine, Massachusetts, Minnesota, Mississippi, New Mexico, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and West Virginia.

² The other three proposals include [H.R.3877 - Fair Billing Act of 2017](#) (Rep. Michelle Grisham D-NM), [H.R.817 – End Surprise Billing Act of 2017](#) (Rep. Lloyd Doggett D-TX), and [S.3592 – No More Surprise Medical Bills Act of 2018](#) (Sen. Maggie Hassan D-NH).

- Following patient stabilization, providers would be required to notify patients that they could be responsible for additional charges if they are in an out-of-network facility.
- Patients who receive non-emergent treatment by an out-of-network provider at a facility within their insurance network would only be responsible for paying the amount required by their insurance plan. Providers could seek additional payments from a patient's insurer based on formulas established by state regulation or through a federal formula set in the legislation.

Conclusion

Surprise medical billing is a significant problem for many Americans and has recently been the subject of several news investigations, highlighting the extent of the issue. While there is continued discussion at the federal level to establish comprehensive legislation to address surprise billing, many states are taking action in the interim. As awareness grows, further discussion of the roles and responsibilities of providers and insurers to mitigate the impact of surprise billing practices on consumers will continue to be at the center of legislative proposals.

ⁱ NORC at the University of Chicago, "New Survey Reveals 57% of Americans Have Been Surprised by a Medical Bill." August 30, 2018. Retrieved from <http://www.norc.org/NewsEventsPublications/PressReleases/Pages/new-survey-reveals-57-percent-of-americans-have-been-surprised-by-a-medical-bill.aspx>

ⁱⁱ Hoadley, J., et.al. "State Efforts to Protect Consumers from Balance Billing." The Commonwealth Fund, January 18, 2019. Retrieved from <https://www.commonwealthfund.org/blog/2019/state-efforts-protect-consumers-balance-billing>

ⁱⁱⁱ Bluth, R., "Senators Unveil Legislation to Protect Patients against Surprise Medical Bills." Kaiser Health News, September 19, 2018. Retrieved from <https://khn.org/news/senators-unveil-legislation-to-protect-patients-against-surprise-medical-bills/>

^{iv} Bill Cassidy, United States Senator for Louisiana, "Cassidy, Bipartisan Colleagues Release Draft Legislation to End Surprise Medical Bills." Press Release, September 18, 2018. Retrieved from



<https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-bipartisan-colleagues-release-draft-legislation-to-end-surprise-medical-bills>