

Don't Let Surprise Billing Surprise Your Practice



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President Trump's 2020 State of the Union speech addressed an important topic currently being debated on Capitol Hill. Patients, he espoused, should never be "blindsided" by medical bills. Tackling surprise billing, which occurs when an insured patient receives care from an out-of-network provider at an in-network facility, has the bipartisan support of Congressional leaders. Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN) joined House Speaker Nancy Pelosi (D-CA) in opposing "egregious billing practices." With Presidential support and stories of patient misfortune flooding the airwaves, members of Congress are jumping on the bandwagon to put forward legislation to halt surprise billing.

The only issue at this point is the *solution* – and it may have an impact on all medical practices. Aimed to formulate a payment due from the patient in the circumstance of a surprise bill, two proposals are on the table:

- ***Benchmark:** rates set based on median in-network rates for a geographic area, with maximum thresholds.*
- ***Arbitration:** payment established based on an independent dispute resolution between the provider and the insurer with guardrails based on time – without agreement, an independent, third-party mediator would take over.*

Hospitals that outsource care to staffing companies – for example, emergency medicine groups – will be immediately impacted, as will the physicians staffing the hospital.

While the issue is focused on specific circumstances that may initially impact only a subset of hospitals and providers, all physicians experience treating and billing for an out-of-network patient, even in the medical office setting. It's typical practice to bill and collect the full out-of-network charge for these patients, perhaps discounting based on upfront payment or the patient's financial circumstances. The federal debate on surprise billing – and whichever outcome is chosen – may impact these cases in the future. If there is an established benchmark rate for an encounter for an out-of-network provider in an in-network facility, for example, patients and insurers will certainly reference that rate for an out-of-network provider *in a medical office* setting. Further, the proposed legislation from both sides – those favoring benchmarks and those preferring arbitration – includes some reference to “transparency” related to *all* medical bills. Given the complexity of our reimbursement system, operationalizing this may prove a daunting challenge.

When will we get an answer? Federal health care funding for community health centers and physicians in several mid-western states runs out on May 22, 2020. Experts concur that lawmakers are shooting for this date to choose a solution to surprise billing to incorporate in the expected health care legislation. While the broader impact may not be known for some time, we will keep you posted on how this legislation plays out and how it might impact your practice.

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