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Background on Surprise Billing

What is surprise billing?

Surprise billing or unanticipated billing are terms being used to describe circumstances when a patient receives services from an out-of-network provider at an in-network facility and is billed for those services. Surprise bills can be very costly and there is bipartisan support for taking the patient out of these billing practices.

> **Example**: A patient goes into an emergency room at an in-network hospital and, unable to quiz providers on who is in-network, receives care from an out-of-network anesthesiologist. Later, the patient receives a costly bill for out-of-network care.

What solutions do physician groups support?

The Protecting People from Surprise Medical Bills Act (H.R. 3502)**,** introduced by Rep. Raul Ruiz, MD, an emergency physician, and Rep. Phil Roe, MD, an OB-GYN, is modeled after New York state law. H.R.3502 would prevent out-of-network providers from billing a patient for unforeseen out-of-network care. The insurance plan issuer will pay the provider a commercially reasonable rate within 30 days. If either party is dissatisfied with the payment, they have 30 days to privately negotiate. If no agreement is met, either party may trigger the independent dispute resolution (IDR) process, which would be established by the Secretaries of Labor and Health and Human Services.

> **Note**: IDR is "baseball style" – the arbitrator selects either the initial provider charge or the payment that the plan initially paid the provider, whichever they deem to be more reasonable. If the parties reach a settlement prior to completion of arbitration, they split the costs of the process. The Trump Administration is opposed to arbitration. Other opponents, such as insurance companies and some employer groups, argue that arbitration would drive up overall costs/rates.

Alternate proposals include: capping out-of-network charges to a regional average (benchmarking), capping out-of-network charges to a percentage of relevant Medicare rates, or requiring every provider at a hospital to agree to be in-network for the networks the hospital belongs to (network matching). Under network matching, hospitals would receive the payment and determine how much providers are paid.

In late June, the Senate Health, Education, Labor & Pensions (HELP) Committee overwhelmingly voted to send a wide-ranging health bill, The Lower Health Care Costs Act, to the Senate floor. The bill resolves surprise billing payment disputes by creating a benchmark payment pegged to an area's median in-network rate. Sen. Bill Cassidy, MD successfully proposed an amendment that would make insurers post all the physician and hospital options in their networks so patients could see their choices of doctor before deciding on a plan. Chairman Lamar Alexander promised he would keep working with Sen. Cassidy and other senators who still want to appoint an outside arbitrator to field payment disputes.

The House Energy & Commerce Committee is considering a similar proposal that includes benchmarking.

What do these solutions cost?

The Congressional Budget Office (CBO) sent preliminary budget estimates to lawmakers on June 4. The CBO estimates that the benchmarking model would save the most money at $25 billion over 10 years. The arbitration model would save $20 billion and network matching would only save $9 billion because the proposal could incentivize hospital consolidation.

Ask: This document is solely for your information. This is not one of our legislative asks during the STS fly-in. STS has not backed any bill.