

CONGRESSIONAL SURPRISE BILL PROPOSALS

GREATER NEW YORK HOSPITAL ASSOCIATION • 555 WEST 57TH STREET, NEW YORK, NY 10019 • T (212) 246-7100 • F (212) 262-6350 • WWW.GNYHA.ORG • PRESIDENT, KENNETH E. RASKE

	HOUSE E&C NO SURPRISES ACT	SENATE HELP LOWER HEALTH CARE COSTS ACT
Balance Billing	<p>Balance billing prohibited for:</p> <ul style="list-style-type: none"> • emergency services furnished by out-of-network providers including physicians, hospitals, and freestanding emergency departments (EDs) • non-emergency services furnished by out-of-network, facility-based providers at in-network facilities; facility-based providers include typical hospital-based physicians and other providers designated by the Secretary of Health and Human Services (HHS) <p>Patients are held harmless in surprise bill situations for costs above any applicable in-network copayment or coinsurance, and the cost-sharing amounts they pay are applicable to any in-network deductible.</p>	<p>Balance billing prohibited for:</p> <ul style="list-style-type: none"> • emergency services furnished by out-of-network providers including physicians, hospitals, and freestanding EDs • ancillary non-emergency services furnished by out-of-network, facility-based providers at in-network facilities, including referrals for diagnostic services • post-stabilization inpatient services if the hospital does not provide the patient with advance notice of any out-of-network care, including cost estimates and in-network options <p>Patients are held harmless in surprise bill situations for costs above any applicable in-network copayment or coinsurance, and the cost-sharing amounts they pay are applicable to any in-network deductible.</p>
Payment to Out-of-Network Providers for Surprise Bills	<ul style="list-style-type: none"> • Median in-network contracted provider rate for similar services in same geographic area • HHS Secretary to establish methodology for plans to calculate median contracted rate 	<p>Three options under consideration:</p> <p>Option 1:</p> <ul style="list-style-type: none"> • Insurers may only contract with in-network facilities that guarantee all services in hospital will also be in-network <ul style="list-style-type: none"> • This can be accomplished by requiring all providers of services at the facility to contract with same insurers as the facility or by having the facility bill for those services at in-network rates • For out-of-network emergency services, providers have 30 days to negotiate with insurer over reimbursement; absent an agreement, insurer pays provider median contracted rate



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.

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Payment to Out-of-Network Providers for Surprise Bills (continued)		<p>Option 2:</p> <ul style="list-style-type: none"> Surprise bills less than \$750 to be paid at median contracted rate For bills greater than \$750, plan or provider may initiate dispute resolution using HHS-approved arbiter; plan and provider each submit best and final offer. Arbiter will determine best offer based on information provided, including median contracted rate <p>Option 3:</p> <ul style="list-style-type: none"> Median in-network contracted provider rate for similar services in same geographic area
Applicability of State Laws	Defers to state law if the state law includes a method for determining out-of-network payment in a surprise bill situation, and patient is held harmless for costs above in-network cost-sharing amount; Federal law would apply only to self-insured group health plans	States may establish or continue an alternate method under law for determining appropriate compensation in surprise bill situations. Federal law would apply only to self-insured group health plans.
Disclosure	<p>Non-facility-based out-of-network providers must provide the following to patients at the time an appointment is scheduled and when the services are furnished:</p> <ul style="list-style-type: none"> notice that they are out-of-network the estimated cost of the services to be provided <p>Such providers must also obtain written consent.</p>	For post-stabilization inpatient services provided to patients after emergency services, hospitals must provide patients with advance notice that the hospital or other provider is out-of-network, the expected cost of any post-stabilization services, and a list of alternative in-network options and their estimated cost. Patients have the option to provide written consent to receipt of out-of-network services and assume responsibility for such costs. Hospitals that do not comply with these disclosure requirements are prohibited from balance billing a patient.
Penalties	Undefined civil monetary penalties may apply if provider holds patient liable for costs above the in-network cost-sharing amount.	Civil monetary penalties of up to \$10,000 if provider balance bills patient for surprise bills.