

# Surprise Medical Billing

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**Surprise bills** occur when patients are unfairly billed for out-of-network (OON) care.

| Where they come from                        | Why  |
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| Emergency situations                        | <ul style="list-style-type: none"><li>• Closest emergency facility is OON</li><li>• ED physicians OON at INN facility</li><li>• Ambulance dispatched is OON</li></ul>  |
| Nonemergency care at an in-network facility | <ul style="list-style-type: none"><li>• Surgery at INN facility with INN surgeon may include an OON anesthesiologist, radiologist, pathologist, assistant surgeon, or other specialist</li><li>• OON hospitalist provides care at INN facility</li></ul> |

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# Costs for the Patient

- For HMOs, etc., might be entirely uninsured, AND at much higher rates
- For PPOs, higher deductibles and co-insurance, plus full amounts for charges that exceed market norms

# **This affects all patients through higher in-network rates**

## **Average contracted commercial payment rates:**

- Across all physicians  $\approx$  125% of Medicare
- Radiologists  $\approx$  200% of Medicare
- Anesthesiologists  $\approx$  350% of Medicare
- Emergency Medicine  $\approx$  300% of Medicare

**KEY: Results in higher insurance premiums  
for all privately insured**

# Legislative Solution: The No Surprises Act

## Applies to most surprise bills

- All emergency rooms and physicians
- Air ambulance transports (but not yet ground ambulances)
- Out-of-network services at an in-network facility
  - Unless patient waives protection after notice and consent (HB 505).

## Covers all commercially insured plans

- (including Self-insured ERISA plans)

# Legislative Solution: The No Surprises Act

## Consumer protections

- Patients cannot be balanced billed
- Care must be treated as in network for cost sharing

## Resolving insurer payment to providers

- If negotiations fail, then an **Independent Dispute Resolution** process
- Based primarily on average network rates
  - Rules are being challenged in federal court

# Possible roles for state law

## Basic enforcement for consumer protections (policing noncompliance by insurers, providers)

- Defers to states, similar to ACA, HIPAA – except for ERISA plans

## Dispute resolution: Different (stricter or more lenient) payment standard. But consider:

- Administrative complexity of different rules for different plans
- Unknown effects on network contracting

## Omitted services

- Laboratory services
- Ground ambulances

# Possible additional implications

- Network Adequacy
  - For typical hospital-based specialties, perhaps somewhat less need to insist on full network?
  - But, reducing pressure on insurers to reach network agreements can tilt market dynamics
- All-Payer Claims Database
  - Aids independent review process
  - Aids other state agencies (and researchers!!).