

# Surprise Out-of-Network Medical Billing



At the end of 2020, Congress enacted a federal surprise billing law that relies on an arbitration process to settle surprise bills between providers and insurers.<sup>14</sup> As this law is implemented, it is essential to ensure the law provides patients with the strongest possible protections and lowers health care costs for consumers, employers, and taxpayers. In particular, the arbitration process should be implemented in a manner that avoids increasing consumer premiums, including through inflationary pressure resulting from the consideration of additional factors by the arbiter.

- Initial evidence from New York State suggests that arbitration that allows for the consideration of the 80th percentile of provider charges in arbitration decisions results in provider payments that are on average 8% higher than the 80th percentile of charges. Charges are unconnected to costs and set solely by the provider.<sup>15</sup>
- Initial evidence from New Jersey, which also uses an arbitration process that allows for the consideration of the 80th percentile of charges, found that arbitration decisions closely track to the 80th percentile of charges. The median arbitration decision results in provider payments that are 570% of in-network rates for the same service, likely increasing health care costs compared to other arbitration designs.<sup>1</sup>

## Surprise out-of-network medical bills are a major financial burden for consumers.

- One in 10 insured adults reported receiving a surprise out-of-network bill over the course of 12 months.<sup>1</sup>
- The estimated average balance bill for patients for out-of-network emergency services is \$623<sup>2</sup>, with reports of balance bills exceeding \$100,000 in some cases.<sup>3,4</sup> This can be financially devastating for the 40% of Americans who have difficulty affording an unexpected bill of \$400.<sup>5</sup>
- News reports have highlighted the impact on patients: One patient reported an out-of-network emergency bill of \$108,900 following treatment for a heart attack.<sup>4</sup> Another patient had an in-network procedure and was seen by an unexpected out-of-network assistant surgeon who charged \$117,000.<sup>3</sup>

**1 IN 10** INSURED ADULTS

who reported receiving a surprise out-of-network bill over the course of 12 months.



There is a high prevalence of surprise medical bills in both emergency and in-network settings—where patients have no control over their choice of providers—but it varies by hospital and geographic area, signaling there may be particular bad actors engaging in this practice at consumers' expense.

- Approximately 40% of in-network visits to the emergency room result in a surprise out-of-network bill, when including care received in the hospital and the ambulance transport.<sup>6</sup>
- Separately, one in five emergency room visits include a surprise out-of-network bill and more than 79% of emergency ground ambulance rides and 70% of air ambulance rides involve a surprise out-of-network bill.<sup>2,7</sup>
- Patients may also go to an in-network hospital and still receive a surprise out-of-network bill when an ancillary provider (e.g. anesthesiologists, pathologists, radiologists), who the patient had no part in choosing, delivers care out-of-network. Approximately 15% of inpatient admissions at an in-network hospital include a claim from an out-of-network provider.<sup>8</sup>
- Fifteen percent of hospitals have out-of-network billing rates above 80%.<sup>9</sup>

**Surprise billing is concentrated among a subset of providers (e.g., ancillary and emergency providers) whom patients typically do not choose. This allows them to operate out-of-network without losing business and extract exorbitant payment rates.**

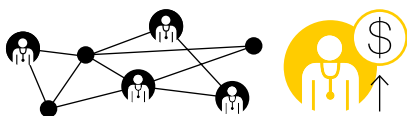
- Approximately one in four out-of-network claims at an in-network hospital involve either an anesthesiologist or radiologist, 14% include a non-primary physician and 11% include an emergency medicine provider.<sup>10</sup>
- Among patients who underwent surgery at an in-network hospital with in-network primary surgeons, 37% of surprise out-of-network bills involved surgical assistants and 37% involved anesthesiologists.<sup>11</sup>
- For one larger insurer, out-of-network emergency physicians averaged charges of almost 800% of Medicare rates.<sup>2</sup>
- Patients who go to in-network hospitals receive bills from out-of-network anesthesiologists 12% of the time.<sup>12</sup> These out-of-network anesthesiologists averaged charges of 802% of Medicare rates, but went as high as 1,408% of Medicare rates, which means Medicare pays \$500 for an anesthesiologist bill for which patients and insurers would be charged \$7,040.<sup>12</sup>
- Out-of-network charges for ground and air ambulances are substantially higher than their in-network rates. Median surprise bills are \$21,698 for air ambulances and \$450 for ground ambulances.<sup>7</sup>

**The ability to bill such high out-of-network rates also allows these providers to charge high in-network rates, increasing premiums for everyone.**

- The average in-network contracted rate for anesthesiologists is approximately 367% of Medicare rates; emergency providers average approximately 300% of Medicare rates; and radiologists average 195% of Medicare rates—compared to all physicians nationwide who average 128% of Medicare rates.<sup>9,12</sup>
- Allowing ancillary and emergency room providers to bill out-of-network raises physician payment rates for privately insured patients by 13.4% and increases spending for people with employer-sponsored insurance by 3.4%—which is approximately \$40 billion annually.<sup>12</sup>

# 800% AVERAGE PERCENTAGE

of Medicare rates that out-of-network emergency physicians charged one large insurer



# \$40 BILLION

**ANNUAL INCREASE**  
in spending for people with employer-sponsored insurance from allowing ancillary and emergency room providers to bill out-of-network

# \$21,698

**MEDIAN CHARGE**  
for air ambulance surprise bills



## Increasing private equity ownership of these providers also contributes to surprise out-of-network billing. Private equity companies use surprise billing as a purposeful business strategy to drive up revenue.

- When TeamHealth and EmCare, physician staffing companies owned by the private equity firms Blackstone and KKR, began working with hospitals, out-of-network billing rates increased by 33 and 80 percentage points, respectively.<sup>9</sup> Out-of-network billing rates have increased with private equity ownership because these companies know they can balance bill patients if they remain out-of-network and extract more revenue than if they were in-network.
- Two of the three largest independent for-profit air ambulance providers are owned by private equity firms KKR and American Securities LLC. These air ambulance providers charge higher prices for air ambulance transports and are more often out-of-network than other air ambulance providers.<sup>13</sup>

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