

## Surprise Medical Billing

### Issue

Illinois hospitals support federal legislation to protect patients from surprise medical bills, which may occur after a patient receives emergency care or out-of-network services at an in-network facility that the patient could reasonably have assumed to be in-network.

Legislation currently being considered by Congress would protect patients by banning the practice of “balance billing.” Still undetermined is the approach for determining provider payment.

### IHA Position

Once patients are protected through a ban on balance billing, Illinois hospitals support negotiation between providers and health plans as the most equitable approach to ensure hospitals are fairly reimbursed and that health plans are incentivized to establish adequate coverage networks for patients. IHA strongly opposes two alternative payment approaches being considered by Congress: rate-setting and “network matching.”

Rate setting. Separate bills recently passed by two health committees rely on a government rate-setting approach to pay providers for certain out-of-network care. The *No Surprises Act* (H.R. 3630) and the *Lower Health Care Costs Act* (S. 1895) use a “benchmark” rate, defined as the median in-network amount in a geographic area. Rate-setting allows the government to set arbitrary payment amounts for hospitals, which could become a “ceiling” for healthcare prices and put downward pressure on hospital resources. Over half of the reimbursement rates paid to Illinois providers are already set in law by the Medicare and Medicaid programs, which fall short of covering the cost of care. Currently, 42 percent of Illinois hospitals are operating on negative or extremely thin margins.

Rate-setting would remove the incentive for insurers to create adequate coverage networks. Insurers would be allowed to pay out-of-network providers less than they would pay if those providers were part of their network, thus providing little incentive to enter into contracts.

Network matching. Illinois hospitals do not support untested proposals such as requiring hospitals to guarantee to patients and health plans that every practitioner providing care in the facility be considered in-network. This so-called “network matching” approach would require practitioners to either contract with every plan with which the facility has a contract, or to seek payment directly from the hospital (which would then be responsible for billing the health plan on behalf of the out-of-network practitioner).

Network matching would interfere with the fundamental relationship between hospitals and their physician partners and severely limit practitioners’ ability to negotiate contract terms with insurers. Currently, in determining whether to contract with a particular health plan, providers consider numerous factors, such as the burden and costs associated with how a plan applies prior authorization

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and whether the plan provides adequate and timely reimbursement. Network-matching would remove the ability of practitioners to negotiate fair terms if they are forced to enter into contracts based on what two independent parties (the hospital and the health plan) have negotiated.

Additionally, IHA is also concerned that under a network matching approach, practitioners could look to hospitals to make up the difference between what they are paid by insurance companies and what they have billed. This additional cost could be especially harmful to the 42 percent of Illinois hospitals operating on negative or extremely thin margins.

### Action Requested

- Support legislation that protects patients and preserves the negotiation process between healthcare providers and payers.
- Oppose government rate-setting proposals, such as use of a “benchmark” rate.
- Oppose untested policies such as “network matching.”

#### **Illinois Laws as a Model for Federal Legislation**

Illinois is one of nine states identified as having “comprehensive” surprise billing laws.

In the event a payment dispute arises between providers and health plans, Illinois uses arbitration as the binding dispute resolution process. This approach has proven to be significantly less costly than traditional arbitration or litigation and has been successful in Illinois.

Specifically, Illinois Public Act 96-1523 holds insured patients harmless for any increased out-of-pocket obligations from certain facility-based out-of-network practitioners who provide services at an in-network hospital. The law explicitly defines an “out-of-network practitioner” as one who provides radiology, anesthesiology, pathology, neonatology or emergency department services in a participating hospital or ambulatory surgical treatment center. Illinois Public Act 94-0885 requires insured patients to be provided with advance notice that healthcare professionals affiliated with the hospital may not be participating within the same insurance plans and networks as the hospital.

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