Surprise Medical Billing

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Mark A. Hall
Wake Forest University
Brookings Institution
**Surprise bills** occur when patients are unfairly billed for out-of-network (OON) care.

<table>
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<th>Where they come from</th>
<th>Why</th>
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| Emergency situations | • Closest emergency facility is OON  
• ED physicians OON at INN facility  
• Ambulance dispatched is OON |
| Nonemergency care at an in-network facility | • Surgery at INN facility with INN surgeon may include an OON anesthesiologist, radiologist, pathologist, assistant surgeon, or other specialist  
• OON hospitalist provides care at INN facility |
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 ≈ 125% of Medicare
• Radiologists ≈ 200% of Medicare
• Anesthesiologists ≈ 350% of Medicare
• Emergency Medicine ≈ 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!!).