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SURPRISE BILLING MANDATES: **Provider and Payer Perspectives**

State Bar of Michigan, Health Care Law Section | December 11, 2019

Today's Agenda

Surprise Billing Mandates

- What is Surprise Billing
- What States Are Doing
- What Congress Is Doing and Why
- Questions



What is Surprise Billing?

- ***Surprise billing:*** When a patient receives care at an out-of-network facility or from an out-of-network provider at an in-network facility and later receives an unexpected or “surprise” bill.
 - Two Components of the Surprise Bill
 - Out-of-Network Cost Sharing Amount
 - The difference between the out-of-network provider's charge and the insurer's allowable amount (balance billing)



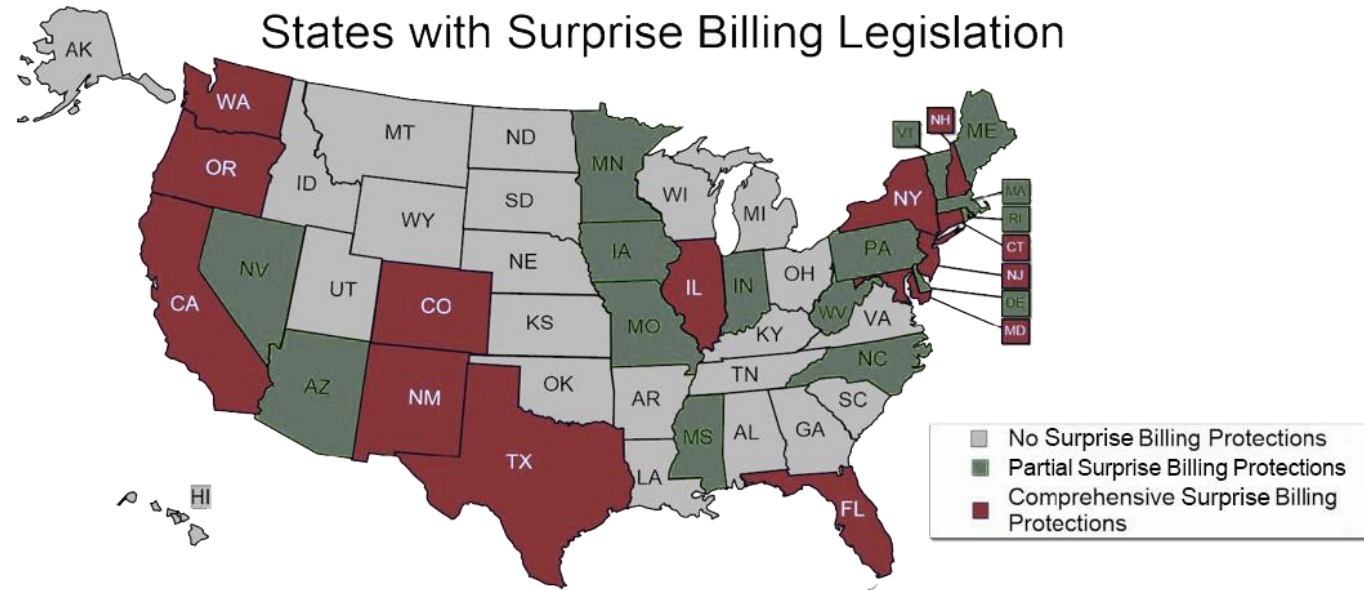
Common Examples of Surprise Billing

- **Emergency Services**
 - Out-of-Network Facility
 - In-Network Facility, Out-of-Network Provider(s)
 - Health Plan Denials
- **Ambulance Services**
 - Ground Ambulance Transportation
 - Air Ambulance Transportation
- **Services Provided by Ancillary Physicians**
 - Anesthesiologists, Radiologists, Pathologists, etc.



Protections Under State Law

- Several states have implemented surprise billing measures
- Many other states have pending legislation
- State laws very widely



Various Other State Approaches

- **Key elements of current state law prohibitions:**
 - Prohibition on surprise billing for emergency services
 - Notice requirements
 - Mandated dispute resolution
 - Reimbursement caps (“rate setting”)



Emergency Services Prohibition

- Most states track the ACA “prudent layperson” standard
- Patients are generally responsible for their cost sharing amount as if the service were provided by an in-network provider
- OON providers prohibited from charging the patient any out-of-pocket amount greater than the amount the patient would have incurred with an in-network provider
- States vary on applicability of this prohibition (some only HMOs or PPOs)



Notice Requirements

- Applies to non-emergency services
- Facility required to give written notice that independent healthcare professionals may not participate in the patient's health plan
- Patient may be responsible for payment of additional fees



Provisions in Payer Contracts

*“With respect to the Hospital-Based Physicians who are not employed by or compensated by Facility, Facility will use best efforts to assist Payer in securing participating provider contracts with such physicians. **Payer reserves the right to revisit the level of reimbursement under this Agreement if the participation level of Hospital-Based Physicians with Payer is detrimental to Payer cost and market competitiveness in Facility’s market area.**”*



Mandated Dispute Resolution

- **New York's Independent Dispute Resolution Process**
 - Applies to emergency medical services and surprise bills for care rendered in participating facilities by non-participating providers
 - “Baseball style” binding arbitration
 - Determination is made within 30 days

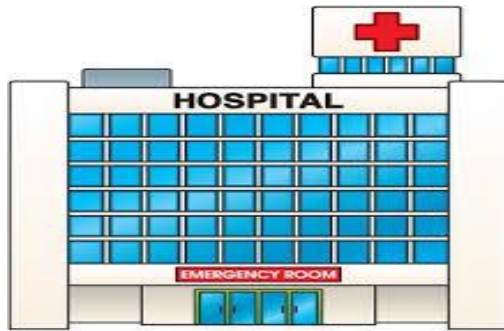


Reimbursement Caps (“Rate Setting”)

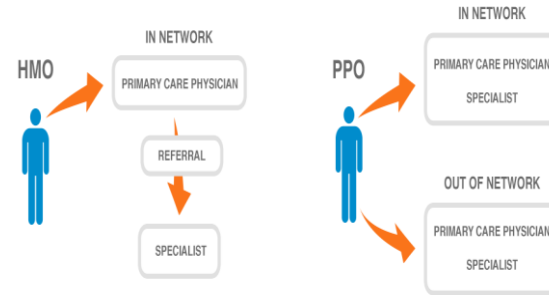
- California caps OON rates at the lesser of the median in-network rate or 125% of Medicare
- Pending legislation in Michigan to set reimbursement at 150% or the plan’s in-network amount whichever is greater



Policy Goals - Comprehensive Protections



**Hospital
and ER
Settings**



**Applies to
All
Insurance
Types**



**Patient is
Out-of-
the-
Middle**

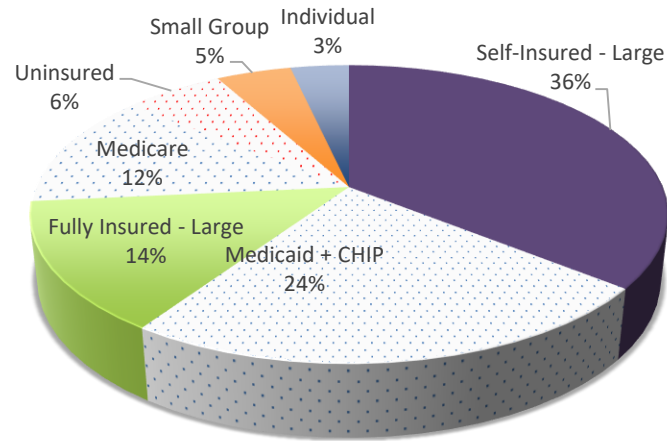


**Provides
Adequate
Payment
Standard**

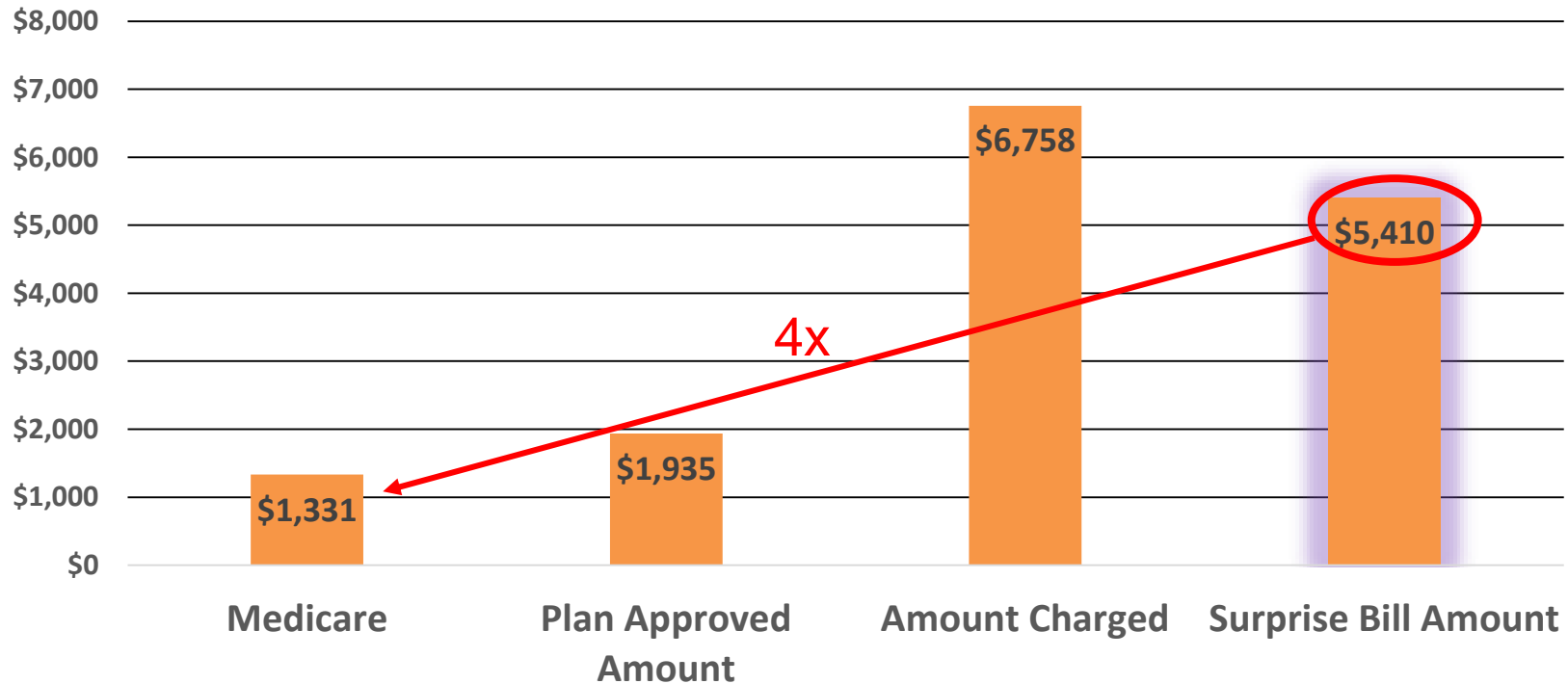


Michiganders Protected

Protected Michiganders by Insurance Type -
5.7 Million



Case Study – Michigan Surprise Bill



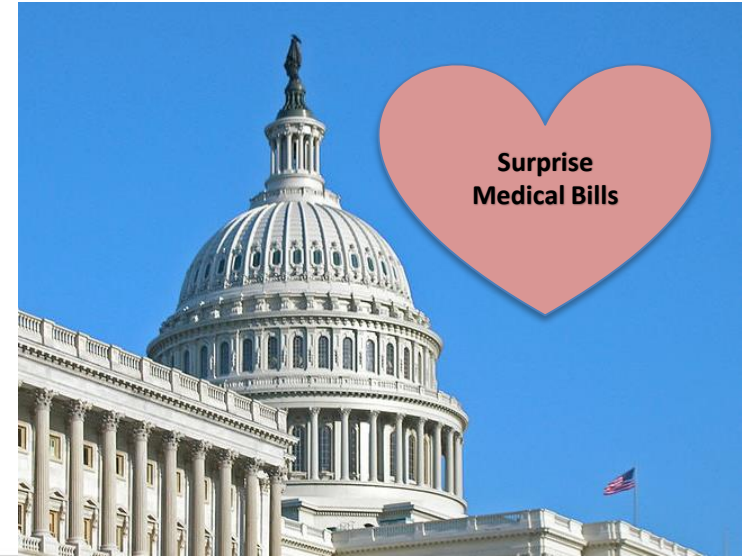
Federal Level

- What Congress Is Doing and Why



No Surprise that Congress Wants to Tackle Surprise Medical Bills

- “Ending surprise medical bills inspires bipartisan kumbaya in a way nearly unheard of these days”
- One of the most promising avenues for lawmakers to target health costs this session
- High-profile issue impacting lawmakers in their home districts



Current State of Play

- Fierce lobbying blitz from stakeholders representing patients, hospitals, physician groups of different specialties, employer groups, and insurance companies
- Political pressures affecting momentum as 2020 election nears
- Different proposals have passed out of House and Senate committees with jurisdiction over health care
- More to come!



Senate HELP Proposal

- Lower Health Care Costs Act of 2019 (S. 1895)
- Introduced by Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA)
- Wide-ranging legislative package addressing health costs; includes surprise billing
- Benchmark Payment Setting
- Work in Progress!



House Energy and Commerce Proposal

- No Surprises Act of 2019 (H.R. 2328)
- Introduced by E&C Leadership – Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR)
- Prohibits balance billing
- Benchmark rate setting
- Includes an arbitration backstop – providers and facilities can use the arbitration process for claims with median in-network contracted reimbursement rates of \$1,250



Big News!! Compromise Legislation

- Bipartisan, Bicameral Agreement for Surprise Medical Bills Announced Sunday, December 8
- Leaders in both parties saying this is best chance to tackle surprise medical bills.
- Compromise led by Senate HELP Chairman Lamar Alexander (R-TN) and House Energy and Commerce Leadership Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR)
 - What about Senate HELP Ranking Member Patty Murray (D-OR)?



Compromise Legislation

- Threshold for entering into arbitration is if the median in-network rate is above \$750
- For bills under \$750, insurers would pay a benchmark rate representing median pay in given area
- Includes Air Ambulance Bills!





House Ways and Means Proposal



Other Players?

- House Education and Labor Committee
- Administration Officials



So...



Questions?

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