

AB 533 (Bonta): Preventing Surprise Bills

Stop Unfair Medical Bills When Patients Follow the Rules

Patients know they have to follow their insurer's rules and go to an in-network hospital to keep their out-of-pocket costs low. Then they get a surprise bill for hundreds or thousands of dollars from an anesthesiologist, radiologist, pathologist or other specialist who turns out to be out-of-network.

[AB 533](#) (Bonta) would protect patients who visit an in-network hospital, lab, imaging center or other health care facility but then get a "surprise medical bill" from an out-of-network provider, one they probably never met or did not choose. While Californians in managed care plans cannot get surprise bills for out-of-network care provided in the emergency room, AB 533 prohibits surprise billing for non-emergency care, protecting the 14 million Californians with commercial HMOs or PPOs regulated by the state.¹

Sponsored by Health Access California, AB 533 ensures that if patients do the right thing by visiting in-network hospitals or facilities, they will only pay in-network charges and co-pays for all the doctors and other health professionals they encounter during their visit. The total amount of cost-sharing will also count toward their deductible and annual out-of-pocket maximum. Currently, right state law does not require out-of-network costs to count towards a deductible or out-of-pocket maximum.

Why Consumers Need Protection

If a consumer does the right thing and chooses an in-network hospital or lab, they should not be on the hook to pay extra for an out-of-network provider they did not choose. For example, patients do not typically choose their anesthesiologist, radiologist, pathologist or hospitalist.

Surprise out-of-network charges cause many consumers financial hardship. Surprise bills can be thousands or even tens of thousands of dollars---and do not count toward the annual in-network cost sharing cap of \$6,600. Surprise bills have detrimental effects on consumers' finances and their ability to pay for basic necessities. A recent Kaiser Family Foundation survey found that 61% of those with medical bill problems say they have had difficulty paying other bills as a result of their medical debt and more than a third (35%) were unable to pay for basic necessities like food or housing.

Fair Payment for Doctors and Preventing Price Increases

AB 533 requires health plans to pay out-of-network doctors providing services at in-network hospitals, labs, and other facilities *at least* what Medicare pays for the same services. The Medicare fee schedule is a transparent and publicly available database. The federal government relies on a committee of the American Medical Association, which represents doctors, to advise on Medicare rates. Providers who want to get paid more than the Medicare rate can appeal to an independent dispute resolution process run by state regulators.

Some groups representing physicians suggest California should follow a recently-enacted New York law on surprise bills that requires health plans to pay out-of-network doctors based on "charges" or sticker price. Basing payments on "charges" should not be replicated in California for the following reasons:

- First, basing reimbursement on sticker prices drives up the cost of health care for everyone. Physicians have proposed that the payment rate be at the 80th percentile of charges, which are significantly higher than average charges and sometimes 5x or 10x the Medicare rate. Instead,

¹ Almost 10 million Californians are in HMOs, another 1.7 million are in PPOs regulated by the Department of Managed Health Care and fewer than 1.7 million are in PPOs regulated by the Department of Insurance. California Health Insurers, Enrollment. (CHCF, January 2016) <http://www.chcf.org/~media/MEDIA%20LIBRARY%20Files/PDF/PDF%20Q/PDF%20QRGHealthInsurersEnrollment2016.pdf>

AB 533 uses Medicare reimbursement as the floor, which most physicians accept as payment in full, and allows higher payments as well.

- Second, the New York law says the 80th percentile of charges should be *one factor* that is considered in setting payments by health plans for out-of-network services, not the *only* factor, as some physicians propose here in California.
- Third, California's health insurance market is dramatically different than in other states. Here, 70% of Californians with private coverage regulated by state law are in HMOs. In other states, such as New York, PPOs are the dominant type of coverage. Because most California consumers do not have an out-of-network benefit in their coverage, they expect to be seen by in-network doctors when they go to an in-network facility.
- Finally, some physicians propose to use FAIR Health, a national database whose public website is based on charges by some physicians to some health insurers and self-funded plans. FAIR Health does not provide information on which specific insurers participate, aside from Aetna, Cigna and UnitedHealthcare (which have limited market share in CA). Given that the FAIR Health database favored by CMA does not include actual prices paid, or a majority of our state-regulated market (such as Kaiser or other HMOs), it is not an appropriate measure to set payments in the California market.

Broad Coalition of Support for Protecting Patients: Consumers, Labor, Physician Groups, the Chamber of Commerce, Health Insurers

Consumers and Patients

Health Access California
AARP
American Cancer Society CAN
Asian Law Alliance
California Alliance for Retired Americans
California Coalition of Welfare Rights Organizations
California Black Health Network
California Pan-Ethnic Health Network
California State Retirees
CALPIRG
Children Now
Children's Defense Fund California
Consumers Union
Leukemia & Lymphoma Society
NAMI California
National Health Law Program
National Multiple Sclerosis Society CAN
The Children's Partnership
Western Center on Law and Poverty

Physician and Provider

California Association of Physician Groups
California Primary Care Association
Community Clinic Association of LA County

Business

California Chamber of Commerce

Labor

AFSCME
California Labor Federation
California Professional Firefighters
California School Employees Association
California Teachers Association
International Alliance of Theatrical Stage
Employees Local 80
LIUNA Locals 777. Local 792
SEIU California

Health Insurers and Industry

America's Health Insurance Plans
Anthem Blue Cross
Association of California Life and Health
Insurance Companies
California Association of Health Plans
California Association of Health Underwriters
Cigna

Other Supporters

City of Oakland
CalPERS Board of Administration

Neutral: The California Hospital Association

Have questions?

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