

## Surprise Medical Bills and the Potential Impact of Legislative Proposals

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## Surprise Out-of-Network Medical Bills

- Examples:
  - Treatment in the emergency department of an in-network hospital by an out-of-network emergency physician
  - Consulting services of an out-of-network secondary physician during an operation by an in-network surgeon at an in-network hospital
  - Emergency transport by an out-of-network (ground or air) ambulance

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### Surprise medical bills lead to liens on homes and crippling debt

NBC News found collections firms putting liens on homes because of unpaid medical bills in New Hampshire, Colorado, Nevada, Ohio, Oklahoma and Vermont.



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	In-network	Out-of-network
Billed amount from ER doctor	\$940	\$940
Insurer's in-network contracted amount agreed to in advance	\$350	n/a
Insurer's "allowed amount" paid out-of-network	n/a	\$190
What your insurer pays	80% coinsurance \$350 * .8 = <b>\$280</b>	70% coinsurance \$190 * .7 = <b>\$133</b>
Your coinsurance/cost sharing	20% coinsurance \$350 * .2 = <b>\$70</b>	30% coinsurance \$190 * .3 = <b>\$57</b>
Balance bill <i>Difference between billed charge and allowed amount out-of-network</i>	n/a	\$940 - \$190 = <b>\$750</b>
<b>Total amount you owe</b> <i>Your coinsurance plus any balance bill</i>	<b>\$70</b>	<b>\$57 + \$750 = \$807</b>

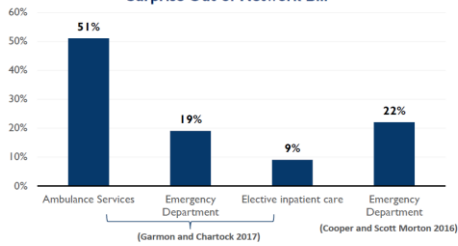
Illustration assumes annual deductible has been satisfied. ER doctor billed charges and insurer's allowed amount for out-of-network services based on actual medical bills from 2014.



Source: Pogue and Randall (2014)

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**Figure 1. Percentage of Visits Leading to a Potential Surprise Out-of-Network Bill**



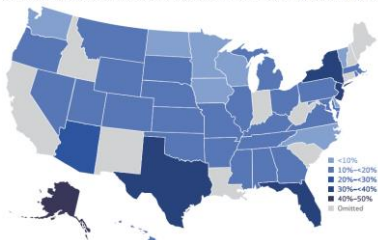
Source: Garmon and Chartock 2017; Cooper and Scott Morton 2016  
Note: For the percentages based on the Garmon/Chartock study, 19% represents the percentage of outpatient ED cases, including those to an out-of-network ED, that could result in a potential surprise balance bill.

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Source: Adler et al. (2019)

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**EXHIBIT 10**  
State levels of hospital inpatient admissions from the emergency department with potential surprise medical bills, 2014



Source: Authors' analysis of data for 2014 from the Truven Health MarketScan Commercial Claims and Encounters Database. We were prohibited from reporting data at the state level for the unincorporated areas because Truven Health requires that, for the data to be published, there be at least three data contributors at the state level and that no single contributor make up more than 60 percent of the data at the state level. However, this requirement affects only data reported at the level of the state or a smaller area. Thus, the national totals we report reflect the data for all 50 states and the District of Columbia.

Source: Garmon and Chartock (2017)

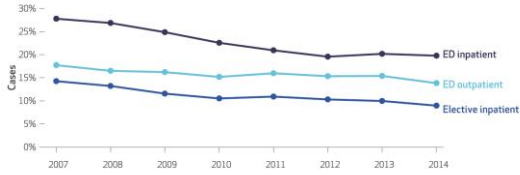
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**EXHIBIT 3**

Percentage of hospital cases with potential surprise medical bills, 2007-14



source: Authors' analysis of data for 2007-14 from the Truven Health MarketScan Commercial Claims and Encounters Database. note: ED is emergency department.

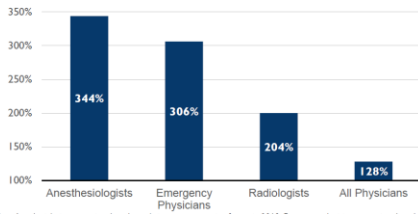
Source: Garmon and Chartock (2017)

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Figure 4. Average Contracted Payment Rates Relative to Medicare Rates for Selected Specialties



Note: Anesthesiologist comparison based on relative mean conversion factors in 2018. Emergency physician comparison based on relative mean payment rates for CPT code 99285 in 2018. For radiologists, 204% represents mean commercial payment for CT Head/Brain scans relative to the Medicare rate (CPT code: 70450). All physicians comparison based on data from commercial PPO claims for one large national insurer.

Source: Sand and Merrick 2018; Trish, Ginsburg, Garcon, and Joyce 2017; MedPAC 2017

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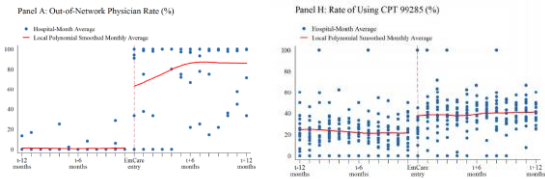
BROOKINGS

Source: Adler et al. (2019)

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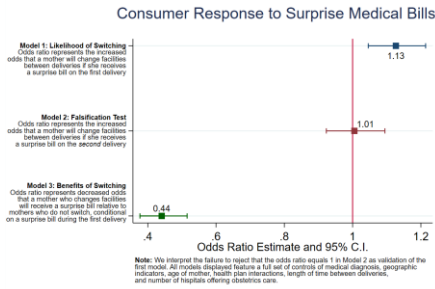


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Source: Cooper, Scott-Morton, and Shekita (2017):

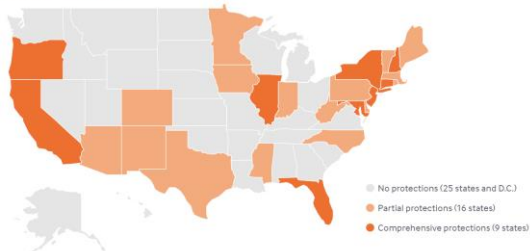
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Source: Chartock, Garmon, and Schutz (2019)

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### State Laws Protecting Against Balance Billing by Out-of-Network Providers in Emergency Departments or In-Network Hospitals



Data collection and analysis as of January 2019 by researchers at the Center on Health Insurance Reforms, Georgetown University Health Policy Institute.

Source: Hoadley, Lucia, Kona (2019)

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**Surprise Medical Bills**

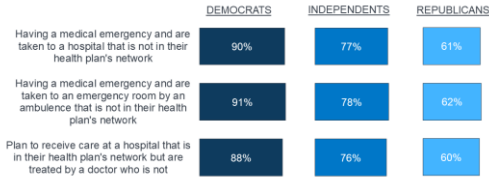
**Are you protected from surprise medical bills?**

✓	⚠	✗
FULLY	POTENTIALLY	NOT
<ul style="list-style-type: none"> <li>✓ Medicare</li> <li>✓ Medicaid</li> <li>✓ VA healthcare</li> <li>✓ Tricare</li> </ul>	<ul style="list-style-type: none"> <li>✓ Fully insured employer plan</li> <li>✓ ACA exchange and other individual market plans</li> </ul> <p style="background-color: yellow; padding: 2px;">1/4 of states have taken some action to protect their insured.</p>	<ul style="list-style-type: none"> <li>✓ Self-funded employer plan</li> </ul> <p style="background-color: red; color: white; padding: 2px;">Only the federal government can regulate these plans, but there's been little federal action to-date.</p>

Source: Adler et al. (2017)

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Figure 11  
Majorities Across Partisanship Say The Government Should Take Action When Patients Receive Surprise Medical Bills  
Percent who say the federal government **should take action** to protect patients from having to pay the cost not covered by their insurance for care received in each of the following situations:



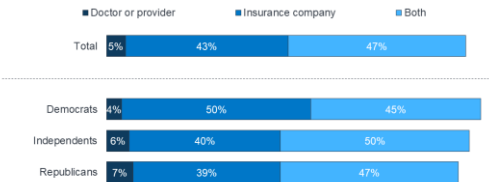
SOURCE: KFF Health Tracking Poll (conducted April 11-16, 2019). See tooltip for full question wording and response options.



Source: Kirzinger, Wu, and Brodie (2019)

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Figure 12  
Public Divided On Who Should Pay If The Government Takes Action To Protect Patients Against Surprise Medical Bills  
If the government takes action to protect patients from having to pay the cost not covered by their insurance for care received in these instances, who should cover the cost?



SOURCE: KFF Health Tracking Poll (conducted April 11-16, 2019). See tooltip for full question wording and response options.



Source: Kirzinger, Wu, and Brodie (2019)

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## Potential Solution #1

- **Prohibit balance billing, regulate out-of-network payment**
- Examples:
  - Federal: Bipartisan “Protecting Patients from Surprise Medical Bills Act”
  - State: California
- Questions
  - What payment standard? (% Medicare, % In-Network)
- Advantage: Administratively simple
- Disadvantage: Distorts provider/insurer negotiation

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### Potential Solution #2

- **Prohibit balance billing, arbitration for payment disputes**
- Examples:
  - Federal: "No More Surprise Medical Bills Act of 2018"
  - State: New York, Texas
- Questions:
  - Guidelines for arbiters? Baseball-style?
- Advantage: Maintains market forces
- Disadvantage: Administratively burdensome

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### Potential Solution #3

- **Bundle hospital and physician payment**
- Questions:
  - Stark/Anti-Kickback? Vertical integration?
- Advantage: Maintains market forces
- Disadvantage: Insufficient
  - What about ambulances? Drive-by doctors?

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### Potential Solution #4

- **Prohibit balance billing, no regulation of out-of-network payment**
- Advantage: Administratively simple
- Disadvantage: reduces leverage of providers in negotiation with insurers

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