

SURPRISE MEDICAL BILLING STATE LEGISLATION REPORT CARD

Surprise Medical Billing:

Surprise Medical Billing (SMB), also called Balanced Billing or Out-of-Network billing, refers to unanticipated medical bills that may result from a variety of circumstances. SMBs most often occur when patients receive medical care from a physician or other clinician that is not included in their insurance network but may also result from unexpected bills due to a high-deductible insurance plan or co-payment for medical care. Patients and clinicians are frequently unaware of whether patients' insurance is "in-network". Under EMTALA, emergency medical services, including hospital-based, on-call specialists, are rendered at Emergency Departments regardless of a patients' ability to pay, health insurance or network status. Solving SMB in a way that protects patients' without threatening access to quality medical care, patient choice, the emergency medical safety net and independent physician practices is imperative.

State:	Bill:	Year Enacted:	Grade:
California	AB 72	2016	F
Florida	HB 221	2016	C-
Georgia	HB 888	2020	A-*
Michigan	HB 4459 HB 4460	2020	C-
Nebraska	LB 997	2020	D
New York	A 9205	2014	A
Texas	SB 481 SB 1264	2015 2019	A
Virginia	SB 172	2020	B-
Washington	HB 1065	2019	B-

Grading System:

State Surprise Medical Billing (SMB) Grades are based upon whether a state's SMB legislation offers patient protections from balanced billing, provides a mechanism for accessible IDR, uses a non-biased third party, all payor claims database (e.g. FairHealth), offers transparency and protects patient access and choice to quality medical care. State SMB legislation is also graded on the effects the legislation has had on health care consolidation, adequate insurance networks, closure of hospitals and physician practices, and physician shortages in the state.

* The final Georgia SMB law could be anywhere from a B+ to A and is subjected to decisions made during the rule-making process.

An ideal Surprise Medical Billing law includes the following:

1. Provides patient protections that holds patients harmless and removes patients from the middle of payor-provider disputes.
2. Bans balance billing and ensures patients are not charged more for out-of-network care than for in-network medical care, including patients with high-deductible insurance plans.
3. Recognizes the role of EMTALA and need to cover Emergency Medical Care and on-call Specialists regardless of network status.
4. Ensures timely, appropriate payments from insurance companies to providers.
5. Avoids cost shifting from patients and providers to large, profitable commercial insurance companies.
6. Implements all aspects of the SMB legislation at the same time, including requiring interim payments and access to IDR, to avoid limiting patients' access to care and giving insurers unfair leverage in setting reimbursement rates prior to full implementation.
7. Offers accessible and meaningful Independent Dispute Resolution (IDR) by either setting no threshold for providers or insurance companies to trigger IDR, or by permitting batching to meet or exceed any monetary threshold, and places no arbitrary cap on claims.
8. Provides fair consideration to all factors affecting payment, not just the median in-network rate or the interim payment standard. Arbiters or decision makers adjudicating disputes must balance the median in-network rate with other factors.
9. Arbiters or decision makers reference a non-biased, third party all payor claims database that is not unduly influenced or owned by insurers.
10. Payment standards should be tied to a payment standard no later than 2018 and are appropriately adjusted annually for medical inflation.
11. Requires network adequacy and transparency to patients about their network status.
12. Requires transparency to health care systems and providers regarding which laws, state or federal, apply to claims from various insurance plans.

These factors ensure that Surprise Medical Billing legislation does not further tip the scales of leverage toward mega-health insurance companies. A SMB law that fails to level the playing field between large health insurers and providers will place rural and underserved hospitals and independent physician practices at higher risk of closure. An insurer friendly SMB law threatens to limit patients' access to timely, quality medical care, lead to consolidation of health care, and will ultimately result in higher medical costs.