Illinois Health and Hospital Association

June 20, 2019

Surprise Billing Legislation: Contact Your U.S. Representatives and Senators

Congress is currently considering numerous proposals to protect patients from surprise medical bills, which may occur after a patient receives emergency care or out-of-network services in an in-network facility that could reasonably have been assumed to be in-network.

There is strong bipartisan support for passing legislation, and lawmakers are moving quickly to finalize a bill. All of the proposals being considered would protect patients from being "balance billed." However, lawmakers have not yet decided how to address reimbursement to providers. There are currently three approaches being considered:

- Rate-setting/Benchmarking. Several proposals backed by the insurance industry would set payment rates in law, such as using the median in-network rate in a geographic area (also called "benchmarking"). IHA believes a standard or benchmark rate would be used as a default amount for additional services, thereby reducing hospital resources and removing the incentive for insurers to create adequate coverage networks for patients.
- Network Matching. This approach would require doctors to join the same insurance networks as a hospital, or to "bundle" their fees with the facilities' (also called "network matching"). IHA believes this untested approach would be administratively complex and severely limit providers' ability to negotiate contract terms with insurers.
- Arbitration. Based on successful state-level laws, this approach uses an independent dispute resolution process (arbitration) to address payment disputes between providers and health plans, should they arise. IHA supports this approach because it preserves the private contract negotiation process while also protecting patients.

IHA urges Congress to use successful state-level laws, such as those in Illinois, which preserve the standard process of negotiation, as a model for federal legislation. In the event a dispute arises between providers and health plans, Illinois uses "baseball-style" arbitration as the binding dispute resolution process. In this process, each party must submit a proposed best and final offer to the arbitrator, who chooses one of the two, without modification. In addition to expediting dispute resolution, this approach has proven to be significantly less costly than traditional arbitration or litigation. Illinois is one of nine states identified as having "comprehensive" surprise billing laws, which are summarized in a recent *IHA letter* to the Congressional delegation.

ACTION REQUESTED: Please contact your Representative and Senators to express strong opposition to setting payment rates in federal law or requiring doctors to join the same networks as hospitals. Instead, IHA urges Congress to protect patients from being balance billed and preserve the standard process of negotiation between providers and plans, as is the law in Illinois. *To call or send email messages to your Representative and Senators, click here.*

It is important that all members of the delegation hear from their hospitals; however; it is urgent that the members listed below who serve on key healthcare committees of jurisdiction hear from their hospitals immediately:

Energy and Commerce Committee
Bobby Rush (IL-1)
John Shimkus (IL-15)
Robin Kelly (IL-2)

Adam Kinzinger (IL-16)
Jan Schakowsky (IL-9)

Ways and Means Committee
Danny Davis (IL-7)
Darin LaHood (IL-18)
Brad Schneider (IL-10)

Education and Labor Committee
Lauren Underwood (IL-14)

Suggested talking points:

- Illinois hospitals support federal legislation that would ban the practice of “balance billing” for emergency services, or for services obtained in an in-network facility that could reasonably have been assumed to be in-network.
- Once patients are protected by a ban on balance billing, the standard process of negotiation should between providers and health plans should be permitted to continue.
- We urge Congress look to successful state-level laws — such as those in Illinois — as a model for federal legislation.
- Arbitration is the independent dispute resolution process used in Illinois. This approach allows for more market considerations than a benchmark rate and has been shown to encourage network participation and incentivize early resolution of any reimbursement disputes.
- Illinois hospitals strongly oppose rate-setting proposals, which would establish an arbitrary fixed rate for services. These rates would become a “ceiling” for healthcare pricing – not a “floor” thereby reducing hospital resources and removing the incentive for insurers to create adequate coverage networks.
- Over half of the reimbursement rates paid to Illinois hospitals are set in law by the Medicare and Medicaid programs, and fall short of covering the cost of care. Currently, 42 percent of Illinois hospitals are operating on negative or extremely thin margins. IHA is concerned that expanding government rate-setting to the private sector could lead to an immediate, harmful reduction in hospital resources, which would threaten access to care.
- In addition to opposing setting arbitrary rates on providers, Illinois hospitals oppose untested proposals such as requiring doctors to join the same networks as a hospitals (“network matching”) or to “bundle” their fees with the facilities’. This approach would significantly increase complexity in the system, interfere with the fundamental relationship between hospitals and their physician partners and severely limit providers’ ability to negotiate contract terms with insurers.
- Finally, we urge Congress not to include excessive price transparency penalties for hospitals, contracting restrictions, or other harmful provisions in surprise billing legislation.

Careers

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