

United States Senate

WASHINGTON, DC 20510

Dear Stakeholders:

As we continue our bipartisan effort to lower health care costs and improve price transparency, we seek more detailed information in addition to what we have received thus far. Surprise medical billing is a complex problem, and crafting bipartisan, effective legislation to address it will require greater engagement from the private sector. We want to protect patients from costly surprise bills while preventing undue disruption in the health care system. To meet this goal, it is critical that we receive additional data and more complete feedback in order to refine and inform our legislative proposal.

With this objective in mind, please send us the following information and data. In order to streamline the compilation of the information we receive, please respond in the following manner, to the extent possible:

- With specific state-by-state data, as applicable, for the following states that have a balance billing law in effect: Alaska, California, Colorado, Florida, Maryland, New York, and Texas
- An average across remaining states, for those states without any existing balance billing law

For questions pertaining to specific states, please feel free to return data in the manner specified in the questions themselves.

Please supply data and feedback on the following questions:

PLAN QUESTIONS

- What do you currently pay for out-of-network care on average, broken down by plan type (*e.g.*, HMO, PPOs, etc.), market type (*e.g.*, individual, small group, large group, ASOs), and provider type, and how do these rates compare to Medicare rates, average in-network rates, and provider charges?
- What percentage of your plans' premiums are currently attributable to the following specialty groups: emergency care (ER) physicians, radiologists, anesthesiologists, pathologists, ambulance services, and laboratory services?
- For state laws that tie reimbursement to the 80th percentile of provider charges or another percentile of charges, please provide data and analysis on how and by what amount these reimbursement levels have affected premiums in these states. How has this affected contracting rates and charge rates? Can you provide the same information for states that have tied reimbursement to some multiple of Medicare rates and in-network negotiated rates?
- Can you provide data and modeling to demonstrate the effect on premiums for the current draft text's proposed changes (*e.g.*, median in-network rate or 125% of allowed in-network amount)? Can you also provide data and modeling to determine the effect on premiums if legislation were to use Medicare rates, as well as if it were to use 80th percentile of charges as payment benchmarks?

- For states using independent dispute resolution processes to address balance billing, what has been the effect of the dispute resolution process on premiums and payment rates to providers, both in and out-of-network? How often, and by how much, have the state dispute resolutions processes resulted in payments amounting to greater than or equal to the 80th percentile of charges? In dispute resolution processes, which party has been successful more frequently, and under which scenarios? If federal legislation to address balance billing included a baseball-style dispute resolution process policy, what would be the best entity to handle the process of dispute resolution?
 - Do you have a process for identifying when providers send balance bills?
 - If so, what is it? Do you also track how much is reimbursed to providers by insurers? If so, how do these amounts compare?
 - If not, why not? Will you consider a process for identifying when balance bills are sent by providers in the future?
 - What specific recommendations do you have to facilitate network adequacy and encourage provider participation in health plan networks in the context of federal legislation to address surprise medical billing?
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- What role do you think hospitals should play in combatting surprise medical billing?
 - In your view, is there a state model that has worked particularly well at protecting patients from surprise medical billing? If so, why has it worked well? Please provide the details of this model, including its impact on contracting rates and out-of-network payment rates, and describe the data and policy rationale underlying this state legislation.
 - What share of plans that you administer (either directly or on behalf of another organization) have an out-of-network rate of beneficiary claims of 0-10%, 10-25%, 25-50%, or more than 50% for emergency room care?
 - What percent of balance bills sent by providers, that you are aware of, are more than \$750?

PROVIDER QUESTIONS

- What is the average out-of-network payment that your providers receive for emergency services? How does this compare to Medicare and charges, broken down by plan type and market? How does this differ by state?
- How does the average out-of-network payment for ancillary providers compare with Medicare reimbursement and physician charges, again broken down by plan type and market?

- According to an article published by the Health Care Cost Institute, emergency room spending per person has increased by 98% while overall emergency room utilization remained the same between 2009 and 2016.¹ How do you explain this trend?
- What percentage of ER, radiology, anesthesiology, and pathology services are performed by providers that are part of outsourcing firms? For each of these specialties, what are the relative market shares for the large national staffing companies, local or regional physician groups, and hospital-staffed specialists? For providers employed by those firms, what percentage share the network status of the facility where they are practicing?
- What percentage of amounts paid for overall emergency care, by both patients and payors, can be attributed to balance billing (dollar amounts and/or percentage amounts)? How about for other specialty departments (*e.g.*, anesthesiology, radiology, pathology, etc.)? If possible, please provide data showing the amounts (or percentages of overall emergency care) paid for services by out-of-network providers at in-network facilities, as well as in-network providers at out-of-network facilities. If possible, please provide data to compare private versus public payments in these scenarios. Please also provide a breakdown of surprise medical bills attributable to each provider specialty.
- In situations where the ED or ancillary physician is out-of-network but the facility is in-network, can you provide data to show how often a balance bill is sent to the patient?
- What percentage of care provided in the emergency department results in bad debt from patients not paying their part of what is owed from care they received, from missed copayments, denied claims, or other means?
- What specific recommendations do you have to facilitate in-network contracting between providers and plans in the context of federal legislation to address surprise medical billing?
- What percentage of care provided by providers within each specialty is out-of-network? Broken down by each specialty, what share of providers are out-of-network for 0-10%, 10-25%, 25-50%, or more than 50% of the commercially insured patients (not including Medicaid managed care) they see?
- Can you identify specific states where providers have a lower-than-average contracting rate?
- What role do you think that hospitals should play in combatting surprise medical billing?
- In your view, is there a state model that has worked particularly well at protecting patients from surprise medical billing? If so, why has it worked well? Please provide the details of this model, including its impact on contracting rates and out-of-network payment rates, and describe the data and policy rationale underlying this state legislation.

¹ <https://www.healthcostinstitute.org/blog/entry/er-spending-among-the-commercially-insured-continued-to-rise-in-2016-driven-by-the-price-and-use-of-high-severity-cases-2009-2016>


- What percentage of balance bills are more than \$750?

By providing comprehensive answers to these questions, you will inform our work on this issue and help bring relief from surprise medical bills to Americans in a timely manner. We respectfully request your response to Transparency@cassidy.senate.gov by Feb. 18, 2019. We look forward to reviewing your submissions.

Sincerely,



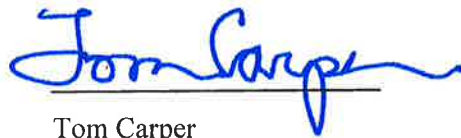
Bill Cassidy, M.D.
United States Senator



Michael F. Bennet
United States Senator



Todd Young
United States Senator



Tom Carper
United States Senator



Lisa Murkowski
United States Senator



Margaret Wood Hassan
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