



Compliance Corner: June 2019

Surprise Medical Billing

Employers and employees alike experience the headache and often significant financial surprise medical bills (balance billing from an in-network facility where the patient unknowingly receives care from out-of-network providers) present. While some states ban the practice, employers who sponsor or participate in self-funded medical coverage are generally not covered by these laws.

Surprise medical billing has become a rare bipartisan concern in Washington, and draft legislation was issued in fall of 2018 that would cover both insured and self-funded health plans. While already a relatively popular cause for health care reform advocates and subject to some news coverage, surprise medical billing received even more attention after President Trump's May 9th, 2019 speech on surprise billing. President Trump called on Congress to enact legislation ending the practice and outlined a set of principles to be incorporated into any legislation that might eventually reach the Oval Office.

The White House's priorities include eliminating surprise medical bills for patients visiting a hospital they believe is in-network facility where they are ultimately treated by a provider that is out-of-network. Also affected would be patients visiting an apparently in-network for elective procedures where they are treated by out-of-network. Some of the Trump Administration's principles do conflict with the earlier proposed legislation, including restricting binding between providers and insurers in cases where they cannot agree on the payment amount and where the patient would ordinarily face a balance or "surprise" bill.

On May 23, 2019, the Senate Health Committee proposed a new bipartisan bill called the Lower Health Care Costs Act ("LCCA"). In addition to addressing surprise medical billing, this bill addresses other

- healthcare cost issues including prescription drug costs and healthcare service pricing transparency. Specific proposals in this bill related to surprise billing include:
- Out-of-network providers at in-network facilities are required to accept in-network rates
 - Prices for emergency services at out-of-network facilities benchmarked at median regional contract rate
 - Arbitration between insurer/payer and hospital when patient receives surprise bill over \$750

Given that there are already distinctions between the LCCA and the Trump Administration's wish list for surprise billing legislation, the final version of the LCCA (assuming it reaches a vote in either chamber of Congress) will almost certainly look different. And major cost concerns including exorbitant air and ground ambulance costs, and a lack of participating providers in a given network, are still not addressed by any pending legislation or Administration proposal. Employers should monitor these developments over the coming months and years to see what relief, if any, they and their employees can expect related to surprise medical bills.

**This newsletter gives a basic overview of recent regulation as in effect on the date of the newsletter. Please be aware that the determination of the requirements and the application of these rules to each employer may differ due to a number of variables. Nothing in this newsletter should be construed as legal advice.*



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