FACTSHEET

AB533 Surprise Bills (Rob Bonta)

No More 'Gotcha' Bills If Consumers Visit In-Network Facility

AB533 (Assemblymember Bonta), would protect patients who visit an in-network hospital or facility but then get a "surprise bill" from an out-of-network doctor they never met or did not choose. AB533 applies to individual and small group market plans regulated by the Department of Insurance, impacting more than 2 million Californians. Right now managed care plans, which are regulated by the Department of Managed Health Care, cannot balance bill for care provided in the emergency room—AB533 prohibits balance or surprise billing for care provided in *all* facilities, impacting 22 million Californians.

Sponsored by Health Access California, AB533 provides that if consumers do the right thing by visiting in-network hospitals of facilities, they will pay in-network charges and co-pays for *all* the providers they encounter in their visit. The total amount of cost sharing will also count toward their out of pocket maximum.

The Need for AB533

Under current law, surprise or "gotcha" bills can add up to hundreds or even thousands of dollars, driving some patients into medical debt. The consumer is stuck paying the bill for care they needed and had every reason to think was in-network. Sometimes it is an anesthesiologist who administers anesthesia, a radiologist who reads an X-ray, or a pathologist who analyzes test results. This practice, also known as "balance billing," is all too common in California.[i] What is worse, because the consumer inadvertently got care out of network, not a dime counts toward the Affordable Care Act's annual out of pocket maximum of $6,600.

Carol of South Lake Tahoe…

After my friend got hit with a surprise bill from an anesthesiologist who, unbeknownst to her, was part of the surgery team at her in-network hospital, I decided I'd better be prepared—even for a simple mammogram. The imaging facility, a hospital, was in network but ALL of the radiologists who would read the results were not. Did I mention I live on a state line? Lots of physician groups in my area are incorporated in Nevada but work in brick-&-mortar buildings in California—therefore the insurance company sees them as out-of-network. My solution? I bypassed the local provider (2 miles from my home) and drove 35 miles on winding, snowy mountain roads to get to a provider AND radiologists that were in-network. That drive takes 1 hour each way so I had to use 1/2 a day of sick time. No one should have to go through this to avoid a surprise bill.

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Frequently Asked Questions

How do we know surprise bills are a problem in California?

In 2014 (data through September) the state Department of Insurance collected more than 140 complaints related to out-of-network benefits. In 2013 the volume of complaints was higher, up to 600 related to this issue alone.[ii] The shift toward "narrow networks" following full implementation of the ACA could mean that consumers are at greater risk for balance billing from out of network providers.

How does AB533 strengthen existing California law on balance or surprise billing?

Californians covered in managed care plans (HMOs or PPOs) have these protections for emergency care even if they go to an out-of-network hospital in the midst of an emergency. But no Californian with commercial coverage has protections against surprise bills for non-emergency care, even if they go to an in-network hospital or imaging center.

How does the Affordable Care Act deal with balance or surprise billing?

Not very well—or not at all. The ACA includes a limit on out-of-pocket costs but that limit does not apply to out-of-network services. AB533 will fix this problem and protect consumers.

How are other states handling the problem?

New York has a new law requiring plans to cover out-of-network charges. If the health plan and provider disagree on payment, they go into arbitration. Other states have taken different approaches to the issue, with most focused on managed care plans.[iii] Colorado simply forces its insurers to pay for any out-of-network charges. According to some critics, this approach minimizes incentives for specialists to join networks, possibly driving up the cost of insurance.[iv] Maryland's solution, to standardize reimbursement rates for out-of-network providers, doesn't get at the heart of the problem, which is the need for plans to build adequate networks and to give providers appropriate incentives to deliver the right care at a reasonable cost.

The Bottom Line

The point with AB533 is the consumer should not get stuck in the middle of business disputes between health plans and providers or facilities. AB533 would let the plans and providers sort out how much the provider gets paid if the provider does not have a contract but provides services at an in-network facility.

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[i] Jon Healey, "The Ugly Surprise of Out-of-Network Doctors and 'Balance Billing,'" LA Times, September 22, 2014. http://www.latimes.com/opinion/opinion-la/la-ol-out-of-network-doctor-bills-surprise-new-york-times-20140922-story.html.
[ii] Jon Healey, ibid.
[iii] Kaiser Family Foundation, "State Restriction Against Providers Balance Billing Managed Care Enrollees," 2013. http://kff.org/private-insurance/state-indicator/state-restriction-against-providers-balance-billing-managed-care-enrollees/.
[iv] Jordan Weissman, "Why Can't States Do More to Protect Patients from Surprise Medical Bills?" October, 2014.http://www.slate.com/articles/business/moneybox/2014/10/surprise_out_of_network_hospital_bills_why_it_s_so_hard_for_states_to_protect.html .

Carol's story courtesy of Consumers Union