

Protect Consumers from Surprise Out-of-Network Bills (AKA “balance billing”)

Vote Yes on HB19-1174, “Concerning Consumer Protections for Out-of-Network Charges”

Sponsored by Rep. Esgar and Rep. Catlin | Sen. Gardner and Sen. Pettersen

What is “Surprise Billing”?

Sometimes, consumers **unknowingly receive care from a provider that isn’t in their health insurance network**. This happens because (1) the consumer went to an emergency room where either the hospital or doctor (or both) were out-of-network, or because (2) they went to an in-network hospital and their doctor was out-of-network. In both cases, consumers didn’t know the care they were receiving wasn’t covered by their insurance company. In Colorado, **there is no limit to what these out-of-network providers or facilities can charge**, and the patient may be billed for the remaining amount after their insurer pays—this leftover amount is called a “balance” or “surprise” bill.

“Surprise billing” puts consumers at significant financial risk of medical debt from bills they may not owe. HB19-1174 is common-sense way to **protect consumers and remove them from the middle of billing disputes** between providers and insurance companies—and **help address health care costs**.

Surprise Billing is Common, Confusing, and Costly

- In a September 2018 poll, **two-thirds of Americans** said they were **worried about being able to afford** their own or a family member’s **unexpected medical bills**¹
- A 2016 report found that 69 percent of people billed for out-of-network services said **they didn’t realize the provider was out-of-network** at the time they received care.²
- **Out-of-network bills sent to insurers from physicians** can be more than **30 times the average in-network rate** for those services. Colorado law requires an insurer, in these “surprise billing” scenarios, to protect patients from balance billing. Carriers must pay whatever the provider chooses to charge.
- Fifty-seven percent of patients who encountered balance billing (in a two-year span), **paid in full because they didn’t know their rights** to fight the bills.³
- In 2016, the **average balance bill charged to the consumer was over \$622**; nearly half of Americans do not have the means to pay an unexpected \$400 charge without incurring debt.⁴

HB19-1174 Protects Consumers, Eliminates Surprise Billing, and Helps Control the Cost of Care!

1. HB19-1174 protects Colorado consumers from these unexpected medical bills by **prohibiting “surprise” out-of-network billing** by providers in cases where consumers **don’t owe the bill** in the first place.
2. The bill also requires plain language **notification to consumers** to inform them of their rights regarding bills sent by out-of-network providers and facilities in both non-emergency and emergency situations.
3. HB19-1174 **helps control costs in “surprise” billing situations** by **setting a reasonable rate of payment for out-of-network providers and facilities**, in these specific situations where consumers don’t choose to be out of network.

These Groups Urge You to Vote Yes on HB19-1174

Arthritis Foundation • Center for Health Progress • Chronic Care Collaborative • Colorado Association of Health Plan • Colorado AFL CIO • Colorado Business Group on Health • Colorado Center on Law and Policy • Colorado Competitive Council • Colorado Children’s Campaign • Colorado Fiscal Institute • Colorado Organization for Latina Opportunity & Reproductive Rights • Colorado State Association of Health Underwriters • Family Voices Colorado • Health District of Northern Larimer County • Healthier Colorado • Mental Health Colorado • MS Society, Colorado-Wyoming Chapter • One Colorado Education Fund • Raise Colorado • SEIU Colorado • Small Business Majority • UFCW Local 7 • Young Invincibles

¹ Ashley Kirzinger, et al, “Kasier Health Tracking Poll—Late Summer 2018: The Election, Pre-Existing Conditions, and Surprises on Medical Bills,” <http://www.kff.org> (September 05, 2018).

² “Answering the Thousand-Dollar Debt Question: An Update on State Legislative Activity to Address Surprise Balance Billing.” Cousart, NASHP. April 2016.

³ Consumer Reports. May 2015.

⁴ “Out-of-Network Emergency-Physician Bills – An Unwelcome Surprise.” Cooper and Morton. NEJM. November 2016.; “Surprise! Out-of-Network Billing for Emergency Care in the United States.” Cooper, Morton, and Shekita. NBER. July 2017.

Frequently Asked Questions

What do you mean by “reasonable payment”?

The bill ensures that for emergency situations and for situations where consumers go to an in-network hospital but see an out-of-network doctor, the payment to the out-of-network doctor (or hospital) reasonably covers their costs without incentivizing other providers to stay out-of-network or driving up costs to the system (and to our premiums).

As amended, the bill requires that **out-of-network providers get paid the greater of** the following options:

1. The median in-network rate for the same service in the same geographic area (105% of the median for emergency services); OR
2. The median in-network rate for the same service, in the same geographic area, as determined by the All Payer Claims Database (APCD).

Why is a reasonable payment so important?

The reasonable payment outlined in the bill ensures that the costs of the services are covered, *without driving up costs to the system and to our health insurance premiums*. Payments (or “benchmarks”) should not be based on charges that are billed by the provider (“billed charges”) or any database that uses “billed charges,” because there is no limit to what a facility or provider may bill. Without a limit, providers and facilities can increase their billed charges in order to maximize reimbursements.

By basing the benchmark on median in-network rates that include information from different carriers and different providers, we ensure a fair and reasonable reimbursement rate that doesn’t cost the system more money. If a health care provider or facility wants to dispute the payment rate, **the bill allows for a baseball-style arbitration process** by a third party, neutral arbitrator that is educated in health care billing.

Does this bill cut payments to all doctors and all hospitals? NO.

1. This bill only addresses two very specific scenarios: (1) emergency situations where the hospital, the provider, or both, are out-of-network with the health insurance company, and (2) non-emergency situations where the hospital is in-network but the doctor (or other health care professionals providing care) are out-of-network.
2. In both of these cases, *the consumer does not know, through no fault of their own, they are receiving care that is out-of-network*. If a consumer intentionally seeks care from an out-of-network provider, this bill does not apply.
3. The payment benchmark will only be applied to out-of-network providers operating at in-network facilities and to out-of-network facilities. **This bill does not affect providers and hospitals that are in-network.**
4. Colorado laws only impact Colorado-regulated health insurance plans. This bill will not affect payments covered by health insurance plans that are regulated at the federal level.
5. If a health care provider or facility wants to dispute the payment rate, the bill allows for a baseball-style arbitration process by a third party, neutral arbitrator that is educated in health care billing.