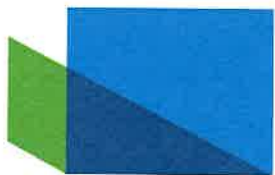




Balance Billing Protection Act

Pierce County Medical Society

October 1, 2019



OFFICE of the
**INSURANCE
COMMISSIONER**
WASHINGTON STATE

Scope of Balance Billing Protection

On May 21, Governor Inslee signed 2SHB 1065 into law. Codified at Chap. 48.49 RCW

As of January 1, 2020, surprise/balance billing is prohibited for:

- Emergency services, and
- Non-emergency surgical or ancillary services provided by an out-of-network (OON) provider at an in-network hospital or ambulatory surgical center. Surgical or ancillary services include surgery, anesthesiology, pathology, radiology, laboratory or hospitalist services.

Consumer Protections

- Consumer cost-sharing is limited to in-network cost-sharing, based upon the health insurer's median in-network contracted rate for the service. Cost-sharing is applied to the deductible and maximum out-of-pocket obligation.
- Prohibits providers and facilities from requiring a consumer to waive their rights under the legislation.
- OIC has produced a notice of consumer rights and will adopt rules related to its use.

Out-of-Network Provider Payment

The OON provider will be paid a “commercially reasonable amount”.

If provider and health insurer cannot agree on this amount, after 30 day informal negotiation period, they can proceed to arbitration.

- OIC provides parties with list of arbitrators/arbitration entities.
- Providers can “bundle” same or similar claims that occurred within 2 months of each other, if same insurer and same provider
- Arbitrator chooses one party’s “best final offer”, parties split the cost of arbitration, each pays its own attorney’s fees.

Dispute Resolution

Parties and arbitrators will have access to a data set from the state's All Payer Claims Database

- Data set based on commercial health insurance claims
- Will provide median in-network, median out-of-network and median billed charged
- Will be posted on OIC's website (training webinar in early December)
- Updated annually based on medical CPI

Transparency

Facilities and providers will post on their websites:

- BBPA Consumer Notice template, and
- The health plan networks they participate in.

In addition, hospitals/ASF's will provide carriers with list of providers who have privileges to practice in, or contract with the facility.

Transparency

Health insurers will:

- Update their provider network website to reflect provider status changes
- Post the OIC notice of consumer rights, and
- Provide consumers with specified information, including information regarding the network status of providers practicing at in-network facilities.

Enforcement

A “pattern of unresolved violations” of the balance billing prohibition and consumer protection provisions constitutes “unprofessional conduct” under the UDA

- If OIC receives a consumer complaint, OIC will investigate and offer provider/facility an opportunity to cure any violation.
- OIC can refer to MSC/disciplinary commission/DOH for further action.

BBPA Applies to:

- All fully-insured health plans sold in Washington State (as defined in RCW 48.43.005).
- Washington State employee health plans (PEBB).
- New Washington State school employee health plans (SEBB).
- Self-funded group health plans that “opt-in” to the balance billing prohibition, arbitration and consumer protections.

Federal Surprise Billing Proposals

To date, 4 proposals:

- Senate HELP Committee
- Bipartisan Senators' Group
- House Energy & Commerce Committee
- Reps. Morelle (NY) and Taylor (TX)

Federal legislation is needed to:

- Protect self-funded group health plan enrollees.
- Prohibit balance billing for emergency services provided by out-of-state hospitals.
- Address air ambulance balance billing.