

Potential Change to California Balance Billing

October 2, 2023

Quick Facts

- “Surprise Billing” or “Balance Billing” sometimes occurs when an insured consumer receives emergency care from a healthcare provider that is out-of-network. After a health plan or insurer reimburses the provider, the provider seeks the “balance” of what they want to be paid from the consumer. Since consumers often do not know that a provider working at their network hospital or an emergency response entity is out-of-network, these large bills are often a “surprise” out-of-pocket bill.
- Current state law in California explicitly allows balance billing for medical transportation to be applied to enrollees in Department of Managed Health Care and California Department of Insurance (CA DOI) regulated health plans and policies, though not Medi-Cal beneficiaries.
- The 2020 federal No Surprises Act does not directly apply to emergency ground medical transport.
- AB 716 is necessary to address the problem of surprise billing, also referred to as “balance billing” which is common practice for emergency ground medical transportation services. This bill would protect injured consumers from expensive out-of-pocket bills and would remove them from the middle of billing and contracting disputes between health plans and ground ambulance service providers, and would aid injured Californians who are often left in the middle of billing disputes for services.

Current Balance Billing Laws

Chaptered in 2016, [AB 72 Health Care Coverage: out-of-network coverage](#), restricted the practice of balance billing. However, AB 72 did not apply to an estimated 7 million Californians covered by federally regulated and self-funded plans or to care received in the emergency room.

Chaptered in 2019, [AB 651 Air Ambulance Services](#), required a health plan contract or insurance policy to provide that an insured consumer would not owe a non-contracting air ambulance provider more than the in-network copayment amount for services beginning January 1, 2020. This has protected injured consumers from very expensive out-of-pocket bills for air ambulance services.

Civics 101: AB 716’s Path to the Governor’s Desk

Introduced on February 13, 2023, by Assembly Member Boerner, [AB 716 Ground medical transportation](#) is co-authored by Senator Wiener and Assembly Member Wood. It was amended twice in the Assembly before being passed on May 30th and moved to the Senate. There it was amended by the Health Committee before being referred to the Appropriations Committee where it was amended again.

On August 14, 2023, it moved to the Appropriations Committee suspense file. Typically, all large ticket item bills are held in suspense to be voted on together. This allows the legislature to have a clearer picture of the funds available before approving a bill. The deadline to move bills out of the suspense file was September 1, 2023. On that day, the Appropriations Committee voted 7-0 in favor, and it moved to the Senate floor. The Senate passed it in an amended form on September 11, 2023. It went back to the Assembly where on September 12, 2023, the amendments were concurred in, and it went to engrossing and enrolling.

Engrossment is the process of preparing a bill in its final form after it has been passed by both houses of the Legislature and any amendments have been made. This includes proofreading the bill for accuracy, correcting any formatting errors, and making sure that the bill complies with all legislative rules.

Enrollment is the process of preparing a bill for signing by the Governor. This includes printing the bill on a special type of paper, affixing the signatures of the Speaker of the Assembly and the President of the Senate, and certifying that the bill has been passed in accordance with the California Constitution and legislative rules.

The bill was enrolled and put on the Governor's desk for signature on September 19, 2023.

What's Next

All healthcare service plan contracts issued, amended, or renewed on or after January 1, 2024, shall require an enrollee who receives covered services from a noncontracting ground ambulance provider to pay no more than the same cost-sharing amount that the enrollee would pay for the same covered services received from a contracting ground ambulance provider. This amount shall be referred to as the "in-network cost-sharing amount." **This applies to all fully insured contracts issued in the state of California.**

An enrollee shall not owe the noncontracting ground ambulance provider more than the in-network cost-sharing amount for services subject to this section. At the time of payment by the plan to the noncontracting provider, the plan shall inform the enrollee and the noncontracting provider of the in-network cost-sharing amount owed by the enrollee and shall disclose whether or not the enrollee's coverage is regulated by the department or if the coverage is not state-regulated.

This bill also states that a ground ambulance provider shall not require an uninsured patient or self-pay patient to pay an amount more than the established payment by Medi-Cal or Medicare fee-for-service amount, whichever is greater.

Existing law creates the Emergency Medical Services Authority (the Authority) to coordinate various state activities concerning emergency medical services. This bill would require the Authority to annually report the allowable maximum rates for ground ambulance transportation services in each county, including trending the rates by county, as specified.

On or before March 1, 2024, and on or before each January 1 thereafter, the Authority shall annually develop and publish on its website a report showing the allowable maximum rates for ground ambulance transportation services in each county, including trending the rates by county. If feasible, this report shall include the applicable Medicare rate for the year. The Authority shall annually submit each report to the CA DOI and the Department of Managed Health Care for purposes of rate review, as well as to the Office of Health Care Affordability.

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