



NEW MEXICO

OFFICE OF  
SUPERINTENDENT  
OF INSURANCE

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SURPRISE BILLING UPDATE

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SEPTEMBER 26, 2018



# The Problem...

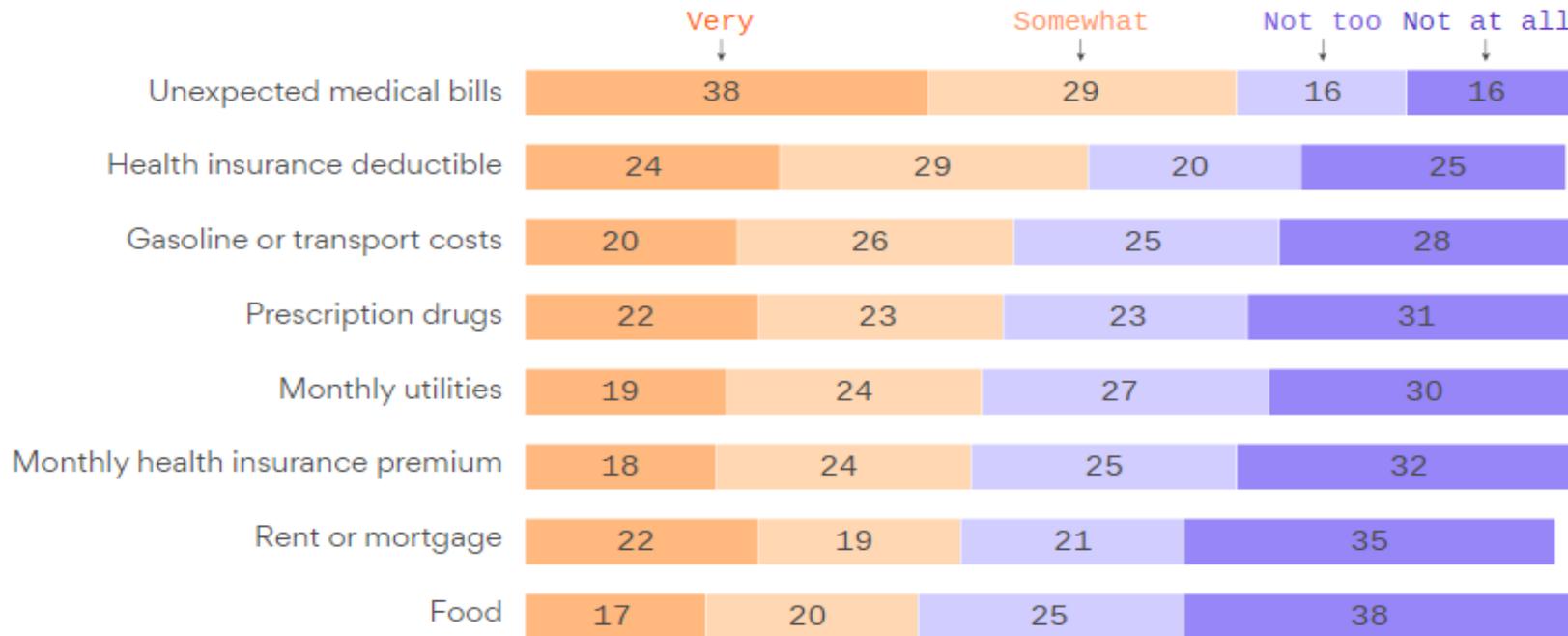
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- 2017 OSI survey showed that 36% of New Mexicans who have had surgery and 55% who had a visit to the ER within the last two years reported a surprise medical bill
- 2018 University of Chicago national study showed that 57% of Americans had received a surprise medical

# Public Opinion

## How worried are you about being able to afford...

Aug. 23-28, 2018, survey of 1,201 U.S. adults



Reproduced from a Kaiser Family Foundation [report](#). Margin of error was  $\pm 3$  percentage points. [Survey methodology](#). Chart: Axios Visuals

# Why?

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Commercial insurance has increasingly narrow networks:

Insurance carriers offering lower reimbursement rates

Providers seeking higher reimbursement to offset inadequate reimbursement by public payors/uninsured populations/increasing costs of doing business



Result:

Carriers/providers fail to negotiate contracts

Consumers are stuck in the middle

# Fixes

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## NM Patient Protection Act

- Requires health insurance carriers to hold consumers harmless for anything other than in-network cost-sharing for out-of-network emergency care.
  - Example: Jane has a severe asthma attack and goes to an out-of-network ER. The ER charges \$3500 for her visit. Jane's portion of the bill is a \$500 copay, the same as if she received in-network care. Jane's insurance carrier works out payment for the remainder of the bill with the out-of-network ER provider.
  - Problem: What if Jane's insurance company and the out-of-network ER provider can't work out the payment of the remainder of the bill? What if the ER provider begins to directly bill Jane as leverage? There is no prohibition in the Patient Protection Act against providers balance billing patients. *\*\*Additionally, does NOT apply to non-emergency care balances.*

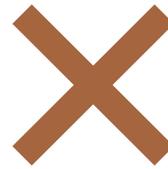
# Proposals – Surprise Billing Legislation

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**Carriers required to hold consumers harmless for surprise billing of:**

- Out-of-network emergency care
- Out-of-network non-emergency care where patient has no choice/no voice
- Typically services delivered at in-network hospitals by out-of-network providers like anesthesia, radiology, lab services



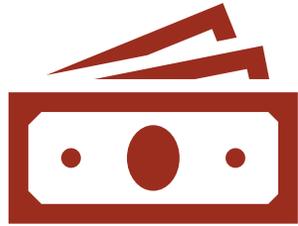
**Providers prohibited from balance billing**



**Provides benchmark for payment of services**

# Surprise Billing Legislation Benchmark Debate

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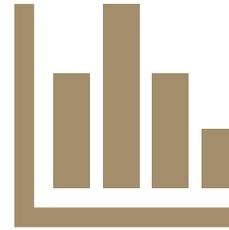
## What should the benchmark be based on?

Some other in-network payment rate?

Medicare?

Some percentile of billed charges?

Some percentile of allowed charges?



## Where do you get the data from to determine benchmark payment?

# Emergency Room Visit – CPT 99283

	Geozip 870	Geozip 871	Geozip 878
Charge 80th Percentile	\$397	\$439	\$816
Average Charge	\$291	\$343	\$585
Allowed 80th Percentile	\$143	\$160	\$298
Average Allowed	\$107	\$128	\$208
CMS Value	\$63	\$63	\$63
NM Medicaid Value	\$59	\$59	\$59

GEOZIP	DESCRIPTION
870	GALLUP, SANTA FE, GRANTS – NEW MEXICO
871	ALBUQUERQUE – NEW MEXICO
878	LAS CRUCES, ROSWELL, ALAMOGORDO – NEW MEXICO

# Surgical Procedure on the Integumentary System – CPT 12001

	Geozip 870	Geozip 871	Geozip 878
Charge 80th Percentile	\$385	\$317	\$520
Average Charge	\$302	\$249	\$385
Allowed 80th Percentile	\$164	\$135	\$206
Average Allowed	\$121	\$102	\$159
CMS Value	\$87	\$87	\$87
NM Medicaid Value	\$81	\$81	\$81

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# Radiology Procedure – CPT 71020

	Geozip 870	Geozip 871	Geozip 878
Charge 80th Percentile	\$144	\$249	\$156
Average Charge	\$125	\$179	\$120
Allowed 80th Percentile	\$66	\$128	\$61
Average Allowed	\$51	\$72	\$49
CMS Value	\$27	\$27	\$27
NM Medicaid Value	\$25	\$25	\$25

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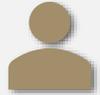
# Laboratory Procedure – CPT 80053

	Geozip 870	Geozip 871	Geozip 878
Charge 80th Percentile	\$69	\$46	\$72
Average Charge	\$63	\$46	\$50
Allowed 80th Percentile	\$26	\$17	\$31
Average Allowed	\$23	\$17	\$26
CMS Value	\$14	\$14	\$14
NM Medicaid Value	\$14	\$14	\$14

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# OSI's Legislative Objectives

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Get consumers out of the middle



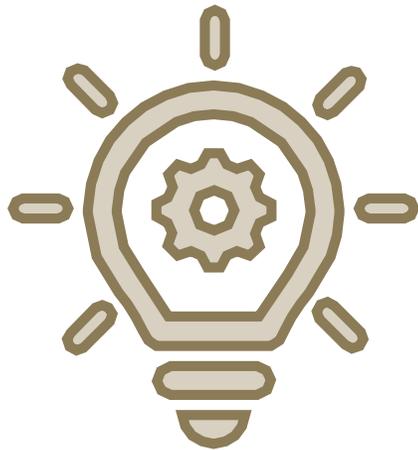
Make sure benchmark selected doesn't disproportionately impact consumer cost-sharing responsibilities



Make sure benchmark selection doesn't negatively impact networks/provider access

# New, bi-partisan federal legislative proposal to limit surprise billing

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## Emergency situation:

- Consumers only responsible for in-network cost-sharing
- Providers can't balance bill
- Hospital/provider can seek additional payment from carrier through formula established by legislation

# New, bi-partisan federal legislative proposal to limit surprise billing

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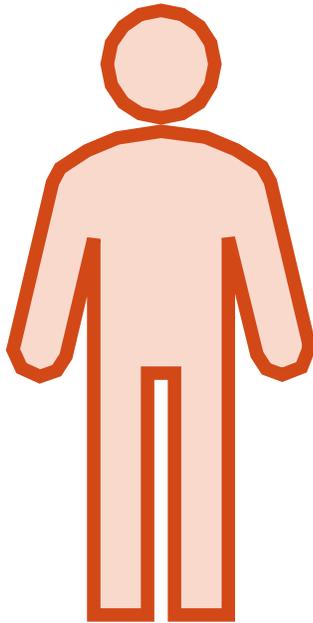
Non-emergency out-of-network care at in-network hospital:

- Consumers responsible for only in-network cost-sharing
- Providers can't balance bill
- Providers can seek more payment from carriers based on formula set up by state rules or through the federal formula



# New, bi-partisan federal legislative proposal to limit surprise billing

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## Notice

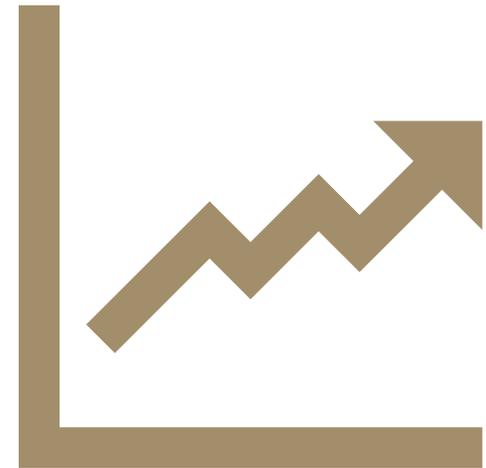
- Mandated notice to emergency patients, once they are stabilized, that they could run up excess charges if they are in an out-of-network hospital
- Patients required to sign a statement acknowledging that they had been told their insurance might not cover their expenses, and they could seek treatment elsewhere

# Air Ambulance

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## Lawsuit

- OSI being sued by air ambulance provider, PHI, for enforcement of the Patient Protection Act in Air Ambulance cases
  - Argues that OSI is pre-empted by federal Airline Deregulation Act
- FAA reauthorization act contains watered down language requesting a “study” of air ambulance charges and medical costs
  - We have no seen movement to give states regulatory authority over air ambulance charges
- Average charge: \$60,000 for an ~100 mile flight





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Questions?

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