



Surprise Billing Legislation Approved by Senate HELP Committee

June 26, 2019

Today the Senate HELP Committee marked up S. 1895, the Lower Health Care Costs Act, and reported it out of Committee 20-3. Senators Sanders (I-VT), Warren (D-MA) and Paul (R-KY) voted against the bill. Click [here](#) for the manager's amendment as approved. For easy comparison, click [here](#) for the original text of S. 1895.

Chairman Alexander committed to continuing to work with Senators Cassidy (R-LA) and Hassan (D-NH) to address their concerns prior to this bill going to the floor for a final vote. The [Cassidy/Hassan bill](#) included an arbitration provision for which there is some support among Committee members. Without the arbitration provision, Sen. Cassidy views this bill as entirely in the insurance companies' interest.

Chairman Alexander indicated that he wants this bill to be voted on by the full Senate before the August recess – with or without the additional drug pricing provisions being prepared by Senate Finance and Judiciary Committees.

The benchmark payment rate would apply to:

- Out-of-network ancillary services (specialists such as anesthesiologists, pathologists, neonatologists and radiologists) at an in-network facility, including any referrals for diagnostic services;
- Out-of-network, non-emergency services that are not ancillary services, from an out-of-network provider at an in-network facility (unless the facility provides notice and patient consents to costs);
- Out-of-network services for emergency services, or maternal care for a woman in labor, prior to stabilization
- Out-of-network services post stabilization and admission after receiving emergency services, unless the facility and insurer provide notice and patient consents to costs.

This version makes some minor changes to Section 305, the billing timeline. Now patients will have 35 days after the postmark date of the bill to pay it instead of 30 days after receipt of the bill. We continue to review the bill, but it appears that many provisions, including Section 102, notice and consent for bills and Section 304, regarding the provider directly are largely the same.

An amendment by Sen. Cassidy to provide patients with greater access to provider directories prior to signing up for insurance was approved.

Critical Access Hospitals are NOT exempt from surprise billing legislation, although Sen. Murkowski (R-AK) raised some concerns.

No amendments were offered regarding the 340B program, despite Sen. Cassidy's announcement yesterday that he would be offering such an amendment. 340B programs were opposed to the Cassidy amendment.

We will keep you posted on further developments.

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