Cancer Patients Need Protection from Surprise Medical Bills

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"Surprise billing" is when an insured patient is unknowingly treated by an out-of-network provider and is then billed the difference between what the provider charged, and what the insurer paid. Surprise bills can be significantly higher than the consumer's standard in-network cost-sharing.

This kind of extra cost is not uncommon. For instance, a patient may have surgery at an in-network hospital and choose an in-network surgeon, but the patient may not know that the anesthesiologist, who is part of the surgical team, does not participate in the plan network. As a result, the patient could pay more for this doctor's services.

Surprise billing affects millions of consumers each year, including cancer patients. Recent academic studies have found that approximately one out of every five emergency department visits involve care from an out-of-network provider.[1] Another study found that the physician specialties most likely to send surprise bills are anesthesiology, interventional radiology, emergency medicine, pathology, neurosurgery, and diagnostic radiology.[2] Surprise bills occur for people in all types of health insurance plans. For example, even among large employer plans, nearly one-in-ten elective inpatient procedures involved a potential surprise bill.[3] Recent evidence shows that surprise bills for privately insured patients have increased in number and amount since 2010, and many of these bills in 2016 were for multiple thousands of dollars.[4]

ACS CAN Position

The American Cancer Society Cancer Action Network supports legislative and regulatory policies at the state and federal level that prohibit patients from being surprise billed for unexpected out-of-network care. Legislation addressing surprise billing should include the following criteria:

- ***Hold Patients Harmless****:* Any policy addressing surprise billing must ensure that patients are held financially harmless. When patients receive services from an out-of-network provider for which they have the reasonable expectation that the service was performed in-network (for example, services performed at an in-network facility, or services ordered by an in-network provider), the patient should incur no greater cost-sharing than if the service was performed by an in-network provider. Any such cost-sharing should accrue to in-network deductibles and out-of-pocket caps.
- ***Apply Protections to all Insurance Plans****:* Surprise billing protections should apply to all commercial health insurance plans, including individual, small group, large group plans, and self-insured plans as applicable.

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[1] Cooper, Zack, Fiona Scott Morton. 2016. "Out-of-network emergency-physician bills—an unwelcome surprise." NEJM 2016; 375:1915-1918. https://www.nejm.org/doi/full/10.1056/NEJMp1608571.

[2] Bai G, Anderson GF. Variation in the Ratio of Physician Charges to Medicare Payments by Specialty and Region. JAMA. 2017;317(3):315–318. doi:10.1001/jama.2016.16230.

[3] Garman, Christopher, Benjamin Chartock. 2017. "One in Five Inpatient Emergency Department Cases May Lead to Surprise Bills." Health Affairs. Vol 36. No. 1 https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0970.

[4] Sun, EC., et al. "Assessment of Out-of-Network Billing for Privately Insured Patients Receiving Care in In-Network Hospitals." JAMA Intern Med. doi:10.1001/jamainternmed.2019.3451. Published online August 12, 2019.

- ***Apply Protections to all Surprise Bills:*** Protections should apply to all surprise bills, regardless of the amount of the bill. Cancer patients and their families face so many expenses that any surprise bill can be challenging.
- ***Apply Protections to all Care Settings****:* Surprise billing protections should be applicable regardless of provider type or care setting. Policies should not limit these protections to just emergency services, hospital services, or to certain types of specialists.
- ***Require Transparency in Addition to – and not Instead of – Surprise Billing Protections****:* Some have suggested that increased transparency for patients could be a sufficient way for policymakers to address the problem of surprise billing. Transparency is not enough. In the vast majority of surprise billing cases, the affected patient has little ability to seek an alternative in-network provider, even if given more information. While ACS CAN has long supported greater transparency requirements for plans and providers, such requirements are insufficient to meaningfully protect cancer patients from surprise bills.
- ***Conduct Additional Research****:* Surprise billing can occur for a variety of reasons, including the inadequacy of a plan's provider network. Policymakers that enact surprise billing protections should also consider requiring data collection on the incidents of surprising billing to determine whether additional policies are warranted (for example, enactment of more robust network adequacy requirements).
- ***Strengthen State Protections, Instead of Weakening Them:*** Any federal protections against surprise billing should not pre-empt stronger state-level protections where these rules apply.