

# State Balance-Billing Protections

Last Updated February 5, 2021



Affordable, quality health care. For everyone.

State	Setting		Type of managed care plan		Type of protection		State-specific method for payment	
	Emergency department	Nonemergency care in network hospital*	HMO	PPO	Hold harmless	Provider prohibition	Payment standard	Dispute resolution process
<b>Comprehensive Approach (18 states)</b>								
California	✓	✓	✓	✓ (a)	✓	✓	✓ (m)	(n)
Colorado	✓	✓	✓	✓	✓	✓	✓	(v)
Connecticut	✓	✓	✓	✓	✓	✓	✓	
Florida	✓	✓	✓	✓	✓	✓	✓ (b)	✓
Georgia	✓	✓	✓	✓	✓	✓ (aa)	✓	✓
Illinois	✓ (y)	✓ (y)	✓	✓	✓ (c)	✓ (d)		✓
Maine	✓	✓	✓	✓	✓	✓	✓	✓ (h)
Maryland	✓	✓	✓	✓	✓ (e)	✓ (d)	✓ (e)	
Michigan	✓	✓ (ee)	✓	✓		✓	✓	✓ (ff)
New Hampshire	✓ (k,y)	✓ (y)	✓	✓		✓		✓
New Jersey	✓	✓	✓	✓	✓	✓		✓ (o)
New Mexico	✓	✓	✓	✓	✓	✓	✓	
New York	✓	✓	✓	✓	✓	✓ (d)		✓ (p)
Ohio	✓	✓	✓	✓		✓	✓	✓ (ff)
Oregon	✓ (k)	✓	✓	✓		✓	✓	
Texas	✓	✓	✓	✓	✓ (w)	✓		✓ (x)
Virginia	✓	✓ (y)	✓	✓	✓	✓		✓
Washington	✓	✓ (y)	✓	✓	✓	✓		✓ (z)
<b>Limited approach (15 states)</b>								
Arizona	✓ (k)	✓ (s)	✓ (t)	✓ (q)	✓	(r)		(l)
Delaware	✓ (f)	✓ (bb)	✓	✓	✓ (f)	✓ (bb)	(cc)	(cc)
Indiana	✓ (i)	✓ (i)	✓	✓ (i)		✓		
Iowa	✓		✓	✓	✓			
Massachusetts	✓ (k)	✓	✓	✓	✓			
Minnesota		✓ (j)	✓	✓	✓			✓
Mississippi	✓	✓	✓	✓	✓	✓ (d)		
Missouri	✓ (k)		✓	✓		✓		✓
Nebraska	✓		✓	✓	✓	✓	✓	(dd)
Nevada	✓		✓	✓	✓	✓	(u)	✓
North Carolina	✓		✓	✓	✓			
Pennsylvania	✓		✓	✓ (g)	✓			
Rhode Island	✓	✓	✓		✓			
Vermont	✓		✓	✓	✓			
West Virginia	✓		✓		✓			

\* Most states provide an exception from protections for nonemergency services in cases where the enrollee has consented or chosen to receive services from an out-of-network provider. The scope of this exception differs by state.

More details are available in the interactive map at <https://www.commonwealthfund.org/publications/maps-and-interactives/2021/feb/state-balance-billing-protections>.

## NOTES

- <sup>a</sup> In California, balance-billing protections in the emergency department setting only apply to those plans regulated by the California Department of Managed Care, which includes HMOs and most PPOs.
- <sup>b</sup> In Florida, payment standards apply to PPOs but for HMOs they apply only for nonnetwork providers of emergency services.
- <sup>c</sup> In Illinois, protections apply only to facility-based providers.
- <sup>d</sup> In Maryland, Mississippi, and New York, balance-billing protections attach when the consumer assigns the benefit to the provider. The linkages to assignment apply to PPOs in Maryland only. In Illinois, the provider prohibition protection attaches when the consumer assigns the benefit to the provider, but the hold harmless protection applies even without assignment.
- <sup>e</sup> In Maryland, the hold harmless and payment standards for PPOs apply only to on-call physicians and hospital-based physicians who obtain assignment of benefits. They apply to HMO providers in all situations.
- <sup>f</sup> Delaware requires insurers to hold enrollees harmless for emergency services provided but does not ban balance billing.
- <sup>g</sup> In Pennsylvania, emergency service balance-billing protections apply only to HMOs and PPOs that require gatekeepers.
- <sup>h</sup> In Maine, dispute resolution is provided only for emergency services.
- <sup>i</sup> In Indiana, protections for emergency services apply only to HMOs. Thus, PPO protections are for nonemergency services only.
- <sup>j</sup> In Minnesota, the protection applies when the service is provided due to unavailability of a participating provider or without the enrollee's knowledge or due to the need for unforeseen services arising at the time the service is rendered.
- <sup>k</sup> In Arizona, Massachusetts, Missouri, New Hampshire, and Oregon, the protection applies only for emergency services provided by a nonparticipating provider in a network hospital.
- <sup>l</sup> In Arizona, a dispute resolution process is available for claims exceeding a specified amount.
- <sup>m</sup> In California, the payment standard is less specific in situations involving emergency services.
- <sup>n</sup> California has available a dispute resolution process for out-of-network care at network facilities if the regular process for applying the payment standard fails in some way. The state also has a voluntary, nonbinding dispute resolution process for emergency services, but it has never been used.
- <sup>o</sup> In New Jersey, there is a \$1,000 threshold for invoking the dispute resolution process, but the consumer is held harmless even if dispute resolution is not used.
- <sup>p</sup> In New York, certain emergency services (specified by CPT codes) are exempt from the independent dispute resolution process if the bill does not exceed 120 percent of the usual and customary cost and the fee disputed is \$672.01 (adjusted annually for inflation rates) or less after any applicable coinsurance, copayment, and deductible. The consumer is held harmless for emergency services even if dispute resolution is not used.
- <sup>q</sup> In Arizona, protections only apply to health plans that cover out-of-network care.
- <sup>r</sup> In Arizona, providers are not prohibited from balance billing PPO members. But in cases where a dispute resolution process is used, a balance bill cannot be submitted after the arbitrator has made a decision.
- <sup>s</sup> In Arizona, protection in nonemergency situations is contingent on disclosure to the consumer. But if the consumer declines to agree to the disclosure, the protections still apply.
- <sup>t</sup> According to state interpretation, the Arizona protection covers enrollees in HMOs.
- <sup>u</sup> Nevada provides a payment standard for a provider or facility that recently had a participation contract in place with the insurer.
- <sup>v</sup> In Colorado, a provider or facility that is not satisfied with the reimbursement rate dictated by the payment standard, given the complexity of the services provided, is allowed to initiate binding arbitration.
- <sup>w</sup> In Texas, hold harmless protection only applies to HMOs and EPOs, but not PPOs.
- <sup>x</sup> For facilities in Texas, there is a mediation process instead of binding arbitration.
- <sup>y</sup> In Illinois, New Hampshire, Virginia, and Washington, with respect to nonemergency services provided by out-of-network providers at in-network facilities, protections are limited to a set of designated specialties. The same restrictions also apply to emergency services in Illinois and New Hampshire.
- <sup>z</sup> In Washington, the result of arbitration is not described in the statute as binding.
- <sup>aa</sup> In Georgia, the payment standard does not apply to out-of-network facilities. Insurers are required to make some payment but there is no specific formula to use.
- <sup>bb</sup> Delaware bans billing for nonemergency services, but there is no hold-harmless requirement.
- <sup>cc</sup> In Delaware, insurers are required to reimburse the highest allowable charge for each emergency care service allowed by the insurer for any other network or nonnetwork emergency care provider in the year before the date of the performed service. In the event the provider of emergency services and insurer cannot agree upon an appropriate rate, the provider shall be entitled to the charges allowed by the insurance commissioner following an arbitration of the dispute.
- <sup>dd</sup> Nebraska has a voluntary, non-binding mediation process that applies if a provider deems the payment made by the insurer to be unreasonable.
- <sup>ee</sup> In Michigan, in cases involving emergency services, a non-participating provider can request an additional payment (25% of the payment standard amount) if a complicating factor is identified. If the carrier rejects the request, a non-participating provider can initiate binding arbitration.
- <sup>ff</sup> In Ohio, parties can request binding arbitration if the service was provided not more than one year earlier and the total amount of individual or bundled claims exceeds \$750.