American Society of Anesthesiologists™

Physician Anesthesiologists Have Solutions to Prevent "Surprise Medical Bills"

The American Society of Anesthesiologists (ASA) supports solutions based upon the successful New York State law to protect patients from "surprise medical bills." Using New York as a model, Congress should act to hold patients "harmless" from unanticipated bills. Patients should be responsible for only their in-network out-of-pocket expenses in emergency and unexpected settings.

Out-of-network billing, or "surprise medical bills" occur when a patient receives a bill for the difference between the out-of-network provider's fee and the amount covered by the patient's health insurance, after co-pays and deductible. Patients often assume that facility-based providers—such as radiologists, pathologists, physician anesthesiologists and emergency physicians—are in-network because their surgeon and hospital are in-network.

Most physician anesthesiologists are a part of their patients' health plans. Physician anesthesiologists recognize being a provider in their patients' health plans is better for patients, easing both expenses and paperwork burdens. It is also better for providers easing billings and administrative responsibilities. While there are circumstances where physician anesthesiologists may not be in a patient's network, data indicates that ***the vast majority of claims for anesthesia services – more than 90% – are in their patients' health plans or "in-network,"*** thereby limiting patient exposure to "surprise medical bills."

To address "surprise medical bill" situations, ASA Urges Congress to:

Hold Patients Harmless for Unanticipated Medical Bills – Ensure that patients would be responsible for only their in-network out-of-pocket expenses in emergency and unexpected settings.

Ensure Enforceable Network Standards as an Essential Part of Fixing this Problem – There are reports of insurance companies narrowing networks as a strategy to limit their costs and to shift those costs to patients. When the government requires insurers to have adequate networks, and regulators hold them responsible for maintaining an adequate network, there will be fewer circumstances in which patients are surprised to learn they had or could be treated by an out-of-network provider, especially in situations where the care was unexpected. ASA is aware of situations where plans have pro-actively sought to exclude physician anesthesiologists from plan networks. In 2018, the Texas Department of Insurance announced that it had fined an insurance company $700,000 for failing to maintain an adequate number of physician anesthesiologists in-network in a number of counties.

Identify Fair Solutions to Ensure Appropriate Payments to Providers – The federal government should not mandate payment benchmarks in commercial insurance plans, nor should insurers be permitted to unilaterally set payment levels. Using Medicare as a benchmark for payment is unworkable for many specialties, including anesthesiology. Medicare payment levels are insufficient to support anesthesia services and represents a 67% discount on the payments usually made for physician services. ASA is strongly opposed to using Medicare as a potential payment benchmark.

Utilize an Independent Dispute Resolution System to Resolve Disputes Between Physicians and Insurance Companies – A binding arbitration or "baseball style" arbitration involving providers and insurance companies is a proven model for efficient and cost-effective resolution of payment disputes.

Look to New York State as a Functioning Model – New York has a law that requires hospitals, physicians and plans to provide clear information about networks and charges, and requires plans to only offer adequate networks. For payment disputes, New York removes patients from the process of determining out-of-network payment. Under the New York law, an out of-network physician or health care plan may submit a dispute regarding a payment to an Independent Dispute Resolution Entity (IDRE) resolution. The IDRE must select either the physician's charges or the insurer's payment ("baseball style") and with a few exceptions, the losing party pays for the dispute resolution process. The law sets up a market-based reasonable usual, customary and reasonable payment definition to guide the IDRE process toward a fair and reasonable payment solution.

REQUEST:

ASA encourages Congress to consider successful, proven models, such as New York's, which puts patients first by holding them harmless, and balancing the interests of insurance companies and providers.

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