

August 5, 2019






ACEP Townhall

Advocating on Surprise Billing in the August Recess

ACEP's Advocacy

ACEP's Advocacy Strategy

Independent dispute resolution: The best federal solution to surprise billing

-  Simple, effective and proven
-  Incentivizes providers to charge reasonable rates, and insurers to pay appropriate amounts
-  In New York, IDR has almost eliminated surprise bills; insurance premiums and health care costs in the state have grown more slowly than the rest of the nation





Want to solve surprise medical bills? Listen to patients

BY VIDOR FRIEDMAN, OPINION CONTRIBUTOR — 07/11/19 08:45 AM EDT
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

25 COMMENTS



Keep the Momentum Going - Ask Congress to Take Patients Out of the Middle from Surprise Bills

The issue of surprise billing is far from decided in Congress and your advocacy efforts are making a difference in the negotiations in both the House and Senate. Now is not the time to let up. All stakeholders agree that patients must be taken out-of-the middle in any solution. But, we must continue to educate legislators that if not done right, there is the potential for significant over-reach of government authority into physician practices, giving a significant leg up to insurance companies that could potentially disrupt the entire healthcare system. At risk are your livelihood as a physician (both in terms of sharp reductions in salaries and reimbursement expected, and reducing opportunities on where you can practice), and continued access to quality care for your patients.

Please continue to contact your two U.S. Senators and your U.S. Representative. Please click on "Find Legislators" to get started. Messaging to the Senate and House is slightly different as they are in different stages of consideration, so you will be taking two separate actions.

Take Action to Protect Patients and Your Profession: Urge Congress to Support the Right Solution in Surprise Billing Legislation

Dear Rep. Brown ([show details](#)) ,

As an emergency physician and your constituent, I am writing to urge you when considering surprise billing legislation in Congress to support an independent dispute resolution (IDR) process that takes into consideration the unique nature of emergency care as the best solution for patients.

I strongly oppose the "bench-marking" approach



Regards,
Margaret M.

Dear Sen. Cardin ([and 1 other](#)) ,

As an emergency physician and your constituent, I'm writing to share my strong opposition to the surprise billing solution recently passed out of the HELP Committee that is part of Title I of the Lower Health Costs Act.

I appreciate the HELP Committee's attention to the issue of health care costs -- and share in the


Regards,
Margaret M.

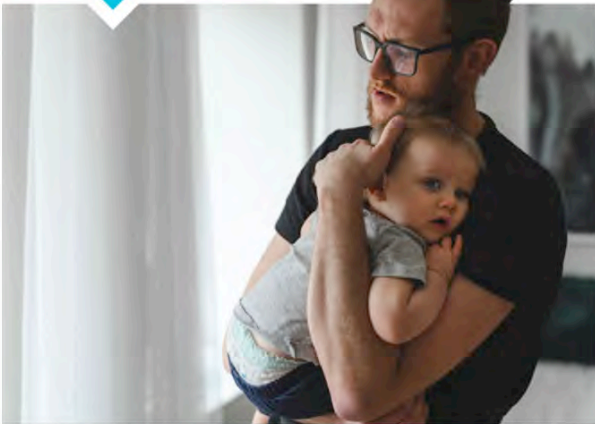
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Tell Congress to take patients out of the middle of payment disputes without letting insurance companies dodge their responsibility to cover your care.

You shouldn't have to choose between life and debt.




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You shouldn't be punished financially for seeking health care when you need it. Tell Congress to protect patients from surprise bills.



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Out of the Middle Campaign

Current Landscape

The latest activity on surprise billing

House



Energy & Commerce Proposal (H.R. 3630)

- Caps OON reimbursement at median in-network rate
- While it includes an IDR option, 99 percent of emergency care would not meet the \$1,250 threshold



Ruiz/Roe Proposal (H.R. 3502)

- Includes ACEP preferred “baseball-style” IDR process
- Levels deductibles

Senate



Senate HELP proposal (S. 1895)

- Could dramatically disrupt health care system
- Could significantly distort contract negotiations between insurers and providers
- Levels deductibles
- Caps OON reimbursement at median in-network rate



Cassidy Workgroup proposal (S. 1531)

- Improvements can be made, but provides best starting point in Senate
- Includes baseball-style dispute resolution
- Levels deductibles

What's Next?

- Meet with legislators while they are home for August Recess.
- Two more surprise billing proposals likely coming in September.



Ways & Means Members

Majority		Minority	
Richard Neal, <i>Chair</i> (MA-1)	Suzan DelBene (WA-1)	Kevin Brady, <i>Ranking Member</i> (TX-8)	Jason T. Smith (MO-8)
Terri Sewell (AL-7)	Judy Chu (CA-27)		Tom Rice (SC-7)
John Lewis, (GA-5)	Gwen Moore (WI-4)	Devin Nunes (CA-22)	David Schweikert (AZ-6)
Lloyd Doggett (TX-35)	Dan Kildee (MI-5)	Vern Buchanan (FL-16)	Jackie Walorski (IN-2)
Mike Thompson (CA-5)	Brendan Boyle (PA-2)	Adrian Smith (NE-3)	Darin LaHood (IL-18)
John B. Larson (CT-1)	Don Beyer (VA-8)	Kenny Marchant (TX-24)	Brad Wenstrup (OH-2)
Earl Blumenauer (OR-3)	Dwight Evans (PA-3)	Tom Reed (NY-23)	Jodey Arrington (TX-19)
Ron Kind (WI-3)	Brad Schneider (IL-10)	Mike Kelly (PA-16)	Drew Ferguson (GA-3)
Bill Pascrell (NJ-9)	Tom Suozzi (NY-3)	George Holding (NC-2)	Ron Estes (KS-4)
Danny K. Davis (IL-7)	Jimmy Panetta (CA-20)		
Linda Sánchez (CA-38)	Stephanie Murphy (FL-7)		
Brian Higgins (NY-26)	Jimmy Gomez (CA-34)		
	Steven Horsford (NV-4)		

House Energy & Commerce Health Subcommittee Members

Majority	Minority
Frederica Wilson, <i>Chair</i> (FL-24)	Tim Walberg, <i>Ranking Member</i> (MI-7)
Joe Courtney (CT-2)	Phil Roe (TN-1)
Marcia Fudge (OH-11)	Rick W. Allen (GA-12)
Donald Norcross (NJ-1)	Francis Rooney (FL-19)
Joseph Morelle (NY-25)	Jim Banks (IN-3)
Susan Wild (PA-7)	Russ Fulcher (ID-1)
Josh Harder (CA-10)	Van Taylor (TX-3)
Lucy McBath (GA-6)	Steve Watkins (KS-2)
Lauren Underwood (IL-14)	Ron Wright (TX-6)
Donna Shalala (FL-27)	Dan Meuser (PA-9)
Andy Levin (MI-9)	Dusty Johnson (SD-at large)
Haley Stevens (MI-11)	Virginia Foxx, <i>ex officio</i> (NC-5)
Lori Trahan (MA-3)	
Bobby Scott, <i>ex officio</i> (VA-3)	

August Strategy

- Promoting IDR as the best solution
- Pointing out flaws with median in-network rate as a benchmark
- Goal is to bring discussion back to a more level playing field



Raise Your Voice in August!

- Join the ACEP 911 Network to take action and stay up to date – <http://acepadvocacy.org>
- Meet with your legislators while they're home
- Use ACEP Surprise Billing Federal Advocacy toolkit
 - ▶ Talking points
 - ▶ Template social media posts
 - ▶ Template op-ed
 - ▶ August Recess 101
 - ▶ Meeting leave behinds





ACEP Surprise Billing Federal Advocacy Toolkit



Independent Dispute Resolution: The Best Federal Solution to Protect Patients from Surprise Billing

Simple and Effective. In states such as New York, baseball-style independent dispute resolution (IDR) has almost eliminated surprise bills, **without any added bureaucracy or cost**, and dramatically increased in-network participation by providers.

Efficient and Easy. Either the physician or insurance company can easily file or respond to IDR online, submitting any accompanying documentation they choose to include. And because IDR uses an independent reviewer to evaluate the claims and make a decision, lawyers won't be involved.

Rarely Invoked. Yet despite its simplicity, IDR is not often used. Since the losing party must pay the cost of IDR (estimates range between \$225-\$325), it instead serves as a powerful backstop, providing a strong incentive for both insurers and providers to set fair payments and prices right from the start. In NY in 2018, only 849 out of the 7.5 million emergency visits that year were taken to IDR—that's just .0113%.

Fast. Baseball-style IDR is fast – each party submits only a final offer, and in most states that use the process, the IDR reviewer is required to make a decision within 30 days.

Targeted. Unlike benchmarking to a median contracted rate, this market-based approach solves the problem of surprise medical bills related to out-of-network care without disrupting the broader market. This should not be confused with other federal arbitration proposals being considered as part of drug pricing discussions - the only parties involved in the IDR process are the physician and the insurer, **not the government, and never the patient.**

Localized. IDR as a federal solution to addressing surprise medical bills won't require any expansion of federal authority or new infrastructure—its implementation and operation can be handled by states, if they so choose, or by a designated private entity such as the American Arbitration Association.

**69 percent of
Americans prefer a
third-party resolution
process over allowing
the government to set
doctors' rates.**

*Poll conducted by Morning
Consult May 31 - June 1, 2019*