

## YOUR RIGHTS AND PROTECTIONS AGAINST SURPRISE MEDICAL BILLS

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, federal and state law provides you with consumer protections related to surprise billing or balance billing.

### **What is “balance billing” (sometimes called “surprise billing”)?**

Depending on what type of health insurance you have, when you see a doctor or other healthcare provider, you may owe certain out-of-pocket costs, such as a copayment, coinsurance and/or a deductible. You may have other costs or have to pay the entire bill if you see a provider or visit a healthcare facility that isn't in your health plan's network.

“Out-of-network” describes providers and facilities that haven't signed a contract with your health plan. Out-of-network providers may be permitted to bill you for the difference between what your plan agreed to pay and the full amount charged for a service. This is called “**balance billing.**” This amount is likely more than in-network costs for the same service and might not count toward your annual out-of-pocket limit.

“Surprise billing” is an unexpected balance bill. This can happen when you can't control who is involved in your care—for example, when you have an emergency or when you schedule a visit at an in-network facility but do not receive advance notice that you are being treated by an out-of-network provider.

“Independent Contractor” is a provider (such as a physician, nurse practitioner or physician's assistant) not directly employed by the facility. Independent Contractors may be on your care team and can be distinguished by their name badges. Independent Contractors may be in-network or out-of-network depending on your health insurance plan. If you have any question about whether your provider is in-network or out-of-network, please check with your insurance carrier.

It is important to note that the providers which are “in-network” for your particular health insurance coverage can change from year to year, even if you did not change your plan or coverage.

### **You are protected from balance billing for:**

**Emergency services:** If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most the provider or facility may bill you is your plan's in-network cost-sharing amount (such as copayments and coinsurance). You can't be balance billed for these emergency services, meaning the out-of-network facility or provider can't bill you for the difference between what your insurer would pay in network and what the out-of-network provider usually charges. This includes services you may get after you're in stable condition, provided it is part of the same episode of care as your original emergency medical condition. The exception to this is if you give written consent in advance of receiving the service and give up your protections not to be balance billed for these post-stabilization services.

Under the New Mexico Surprise Billing Protection Act, for emergency care, it requires your insurance to pay for all out-of-network emergency services necessary to evaluate and stabilize you if you reasonably believe you are having a medical emergency. It also removes any prior authorization requirements. Copayment, co-insurance or limitation of benefits that apply to an in-network provider may apply in these cases.

**Certain services at an in-network hospital or ambulatory surgical center:** When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers may bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist or intensivist services. These providers can't balance bill you and may not ask you to give up your protections not to be balance billed.

If you get other services at these in-network facilities, out-of-network providers **can't** balance bill you unless you give written consent and give up your protections. **You are not required to give up your protections from balance billing. You also aren't required to get care out-of-network. You can choose a provider or facility in your plan's network.**

Under the New Mexico Surprise Billing Protection Act, for non-emergency care, it requires your insurance to pay for out-of-network care provided at an in-network facility if the care is medically necessary or you did not have a choice in selecting a participating provider. The law also requires the provider to tell you if they are out-of-network. You may still receive a bill if you knowingly seek care from an out-of-network provider. Copayment, co-insurance or limitation of benefits that apply to an in-network provider may apply in these cases. **However, if you have been provided notice before you receive services that a provider is out of network and you choose to still go to an out-of-network facility or receive services from an out-of-network provider, you are responsible for those charges.**

**When balance billing isn't allowed, you also have the following protections:**

- You are only responsible for paying your share of the cost (like the copayments, coinsurance, and deductibles that you would pay if the provider or facility was in-network). Your health plan will pay out-of-network providers and facilities directly.
- Your health plan generally must:
  - Cover emergency services without requiring you to get approval for services in advance (prior authorization).
  - Cover emergency services by out-of-network providers.
  - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
  - Count any amount you pay for emergency services or out-of-network services toward your deductible and out-of-pocket limit.

**If you believe you've been wrongly billed, you may contact:**

State: <https://www.osi.state.nm.us>

Federal: <https://www.cms.gov/nosurprises>