

Bi-partisan Legislation Moving Forward Focused on Healthcare Costs, Surprise Billing

Sens. Lamar Alexander (R-Tenn.) and Patty Murray (D-Wash.), the chair and ranking Democrat of the Health, Education, Labor and Pensions (HELP) Committee, are making significant progress toward enacting legislation they hope can help bring down health costs and eliminate surprise medical bills for patients. It is a comprehensive [piece of legislation](#) that covers surprise bills, lowering prescription drug prices, and other provisions related to transparency in the health care system, overall.

The bill was marked up and passed out of the committee at a hearing on June 18, 2019, at which Elizabeth Mitchell, President and CEO of the Pacific Business Group on Health [testified](#). She highlighted the need for payers to be able to pay for health care based on value, and the bill will make significant progress toward enabling the achievement of that goal.

The bill itself contains five titles:

- 1) Ending surprise medical bills
- 2) Reducing the prices of prescription drugs
- 3) Improving transparency in health care
- 4) Improving public health
- 5) Improving the exchange of health care information

The National Alliance has been [supportive](#) of this bill emphasizing the need to address key underlining issues if we are to move toward a more sustainable value-based system and support broad economic growth.

A House version of surprise billing legislation, from Energy and Commerce Committee Chairman Frank Pallone (D-N.J.) and ranking member Greg Walden (R-Ore.) would resolve payment disputes between providers and health plans by establishing a federal benchmark rate rather than tying the rate to a network rate, or using arbitration, an approach doctors and hospitals oppose, but which we and other payer organizations, such as ERIC, support. These issues regarding how to set the benchmark rate and the use of arbitration will need to be resolved before a bill can be sent to the President for his signature.

Purchaser Commentary on Selective Details

The [surprise billing provisions](#) simply prohibit a health care provider from balance billing a patient beyond whatever cost-sharing arrangement already exists under the plan. The requirement functions on the idea of an "in-network guarantee." It requires that any hospital considered "in-network" for a health plan must promise that everyone working there is also in-network, including all providers and any lab or other ancillary service provider. The benchmark rate is set at the median in-network rate. Notably, the bill does not prohibit or do anything to prevent the enforcement of state laws on surprise/balance billing, many of which currently use an arbitration approach to settling disputes.

Regarding the [drug pricing provisions](#), instead of regulating drug prices, the bill would enact changes to patent laws, making it easier for generics to get to market and harder for brand-name drugs to maintain exclusive patents for lengthy periods. It also addresses pharmacy benefit managers. The proposal requires PBMs to give quarterly reports on costs, fees, and information about rebates, and requires that 100% of these discounts be passed on to consumers. While directionally helpful, this proposal falls short on a number of issues we have previously identified as priorities related to [drug policy](#).

The [transparency section](#) includes provisions banning gag clauses on quality and price information, banning anti-competitive terms in insurance contracts, and the establishment of a "Nongovernmental, Nonprofit Transparency Organization to Lower Americans' Health Care Costs." This transparency organization is charged with the establishment and maintenance of a database that receives and utilizes health care claims information and related information and issues reports that are available to the public and authorized users and are submitted to the Department of Health and Human Services. The National Alliance has been very supportive of the need for greater [transparency](#) if we are to promote a value-based marketplace.

Health Policy in Transit A Purchaser Viewpoint