

Surprise!

What the Federal Out-of-Network Billing Law Means for Radiology

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@reh3md |VRS| August 8, 2021

Disclosure

- Professional: Radiology Partners
 - Associate Chief Medical Officer for Health Policy & Communications, National Director of Pediatric Radiology, & Partner
- Societal:
 - American College of Radiology
 - Chicago Radiological Society
 - Illinois Radiological Society
 - Radiological Society of North America
 - Society for Pediatric Radiology

*I am speaking on behalf of myself and not any organization.
Also, I really like The Simpsons.*



Surprise billing is one of the most evil practices in American health care.



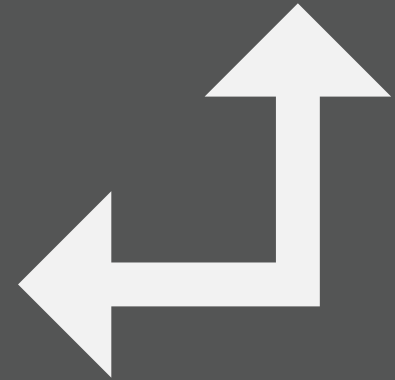
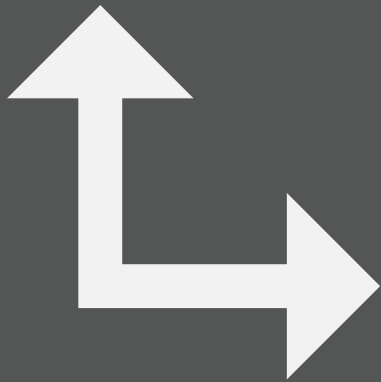
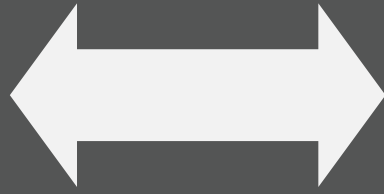
“...only certain specialties and investor-backed physician-staffing firms that rely on out-of-network billing as a revenue strategy would see their profits fall.”

Brown ECF. NEJM March 2020.

~~SURPRISE BILLING~~

SURPRISE INSURANCE GAP





What healthcare issue will be most important in deciding who to vote for in the 2020 election?



What healthcare issue will be most important in deciding who to vote for in the 2020 election?

The image shows a Family Feud game board. At the top center is the 'FAMILY FEUD' logo in a gold oval, with the word 'Healthcare' written in orange text below it. The board consists of four rows of blue rectangular boxes. The left column of boxes contains the numbers 1, 2, 3, and 4, each inside a blue oval. The right column of boxes contains the text 'Healthcare Costs' in the second row, while the other three rows are empty.

1	
2	Healthcare Costs
3	
4	

What healthcare issue will be most important in deciding who to vote for in the 2020 election?





Surprise bills have the elements of a perfect campaign issue. There is a victim: consumers. And a villain — providers

September 24, 2018

Protecting Patients



MEDPAGE TODAY®

“Physicians across the country are now signing a letter urging leaders of Congress to address surprise billing once and for all. I have already signed this letter and encourage you to consider doing so as well.”

Dr. Martin Makary, Editor-in-Chief of MedPage Today, May 2020

In-network Contract Negotiations

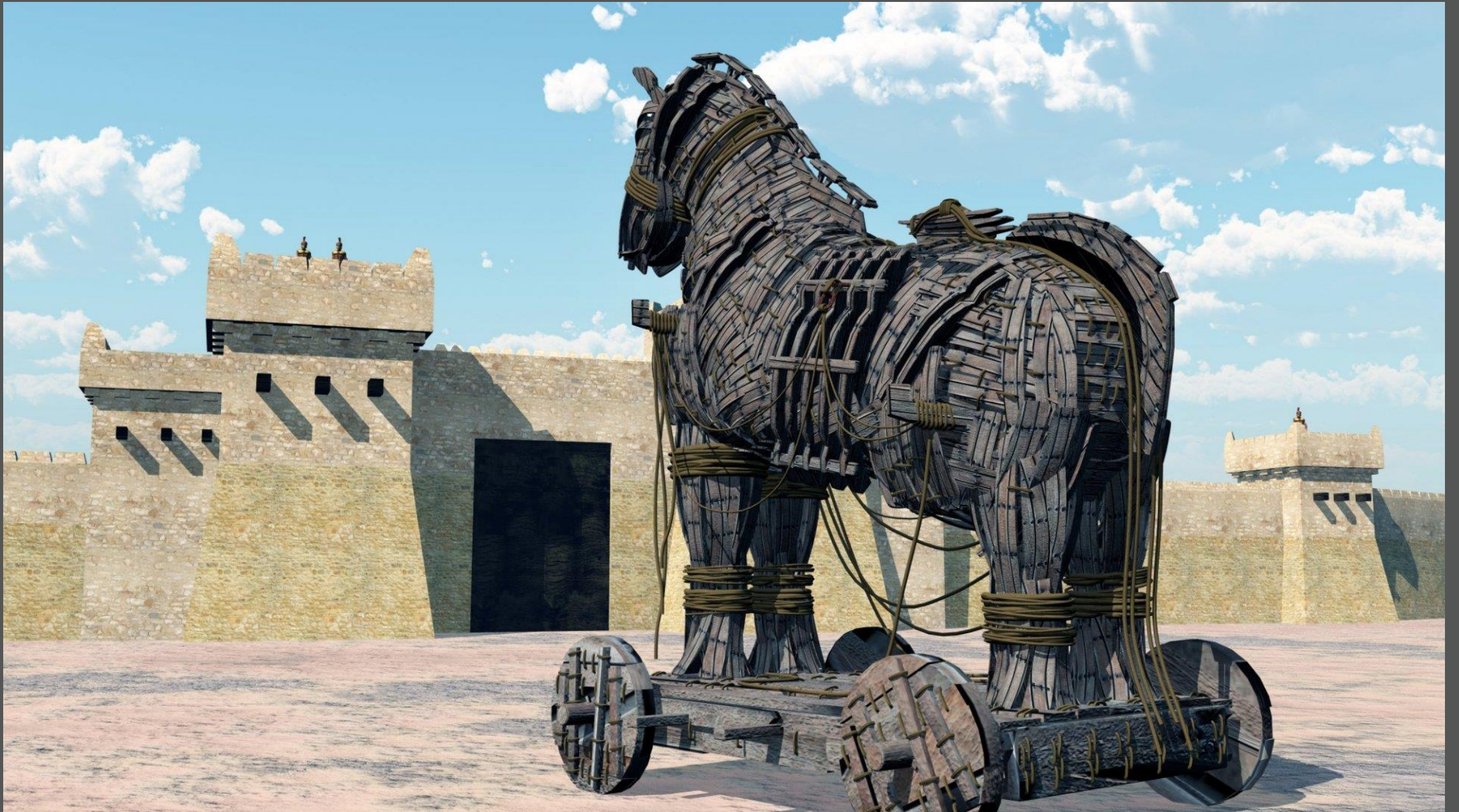




Congressional Budget Office

Nonpartisan Analysis for the U.S. Congress

“policies to address [surprise billing] can have important consequences for the health care system because they affect negotiations between insurers and providers.”





Congressional Budget Office

Nonpartisan Analysis for the U.S. Congress

“...more than 80 percent of the estimated budgetary effects...would arise from changes to **in-network** payment rates....[the bill would] cause the average rate to drop by 15 percent to 20 percent...”



“...only certain specialties and investor-backed physician-staffing firms that rely on out-of-network billing as a revenue strategy would see their profits fall.”

Brown ECF. NEJM March 2020.



Putting Things in Perspective

Quality Payment
PROGRAM

E/M

**SURPRISE
MEDICAL
BILLING
LAWS**

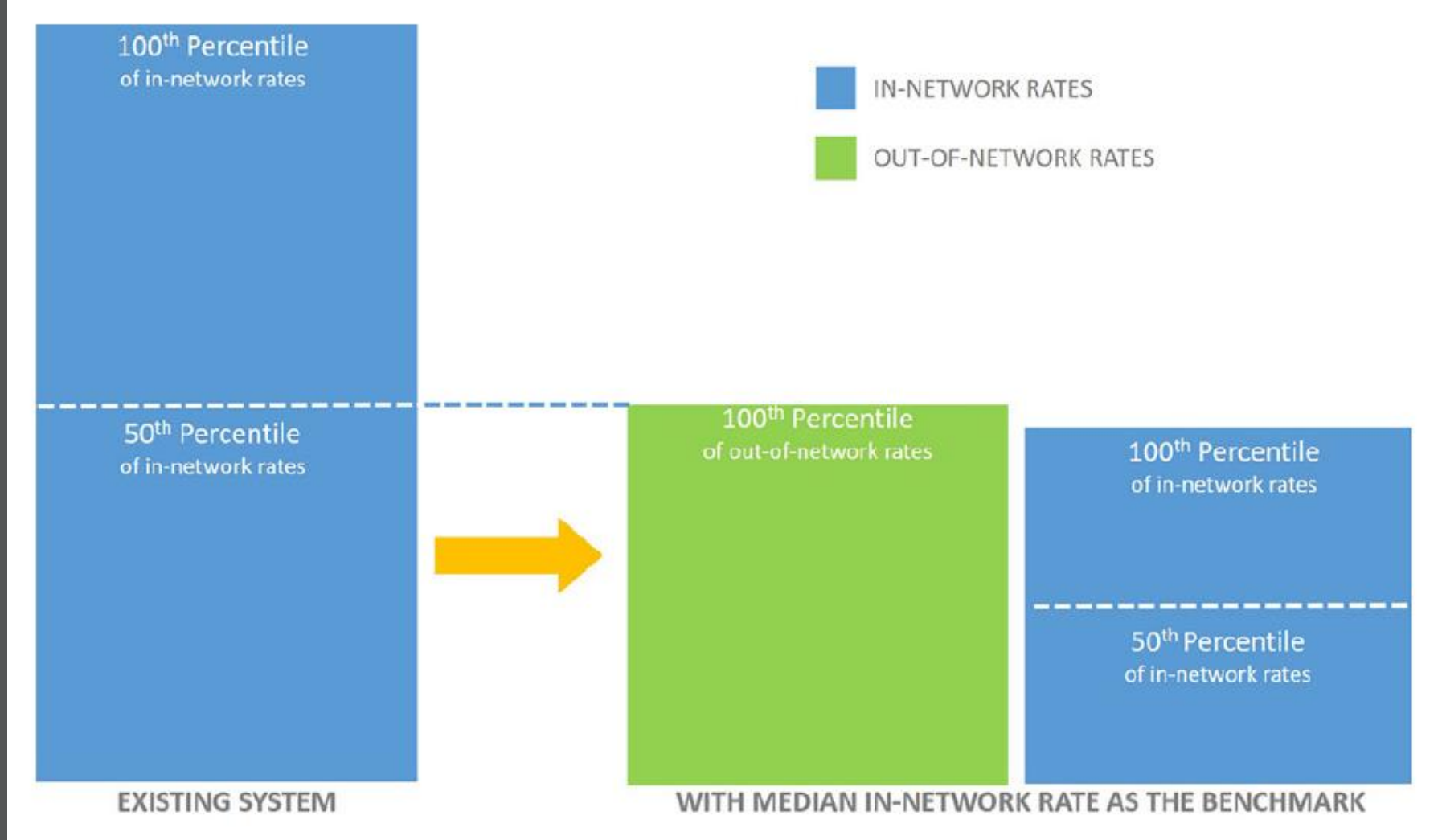
Solution Basics

- Hold patients financially harmless
- Insurers reimburse providers
- Promote network adequacy & transparency

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BENCHMARK



Impact to Patients

Premiums: ↓

Access & Services: ↓





American Society of
Anesthesiologists™

- 42%: contracts terminated in the last 6 months
- 43%: payment cuts from insurers
 - both mid-contract and at renewal
 - in some cases by as much as 60%
 - some of the contracts were signed less than 6 months ago

ARBITRATION



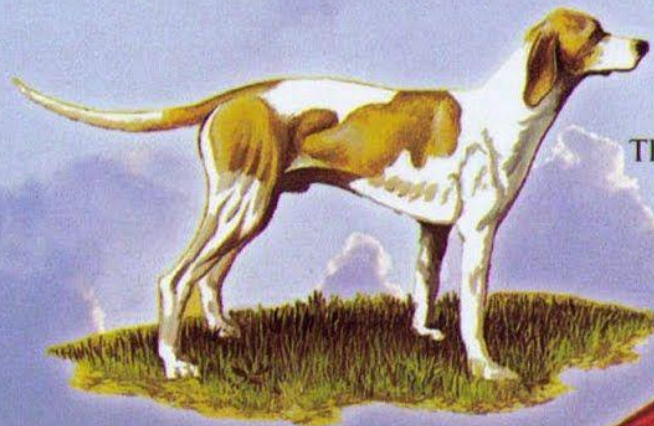
The investigation revealed that the database intentionally skewed “usual and customary” rates downward...



- < 4 yrs:
- Saved consumers >\$400m
- Reduced out-of-network billing
- Radiology <1% disputes

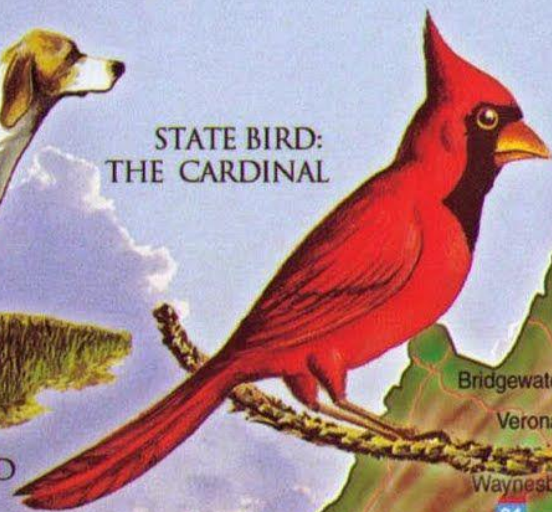


- Most settled before arbitration
- 4x initial insurer reimbursement
- Consumer complaints ↓96%
- Physician complaints ↓70%



STATE DOG: FOXHOUND

STATE BIRD: THE CARDINAL



STATE BUTTERFLY: TIGER SWALLOWTAIL

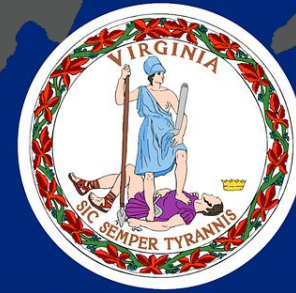


STATE FISH: BROOK TROUT



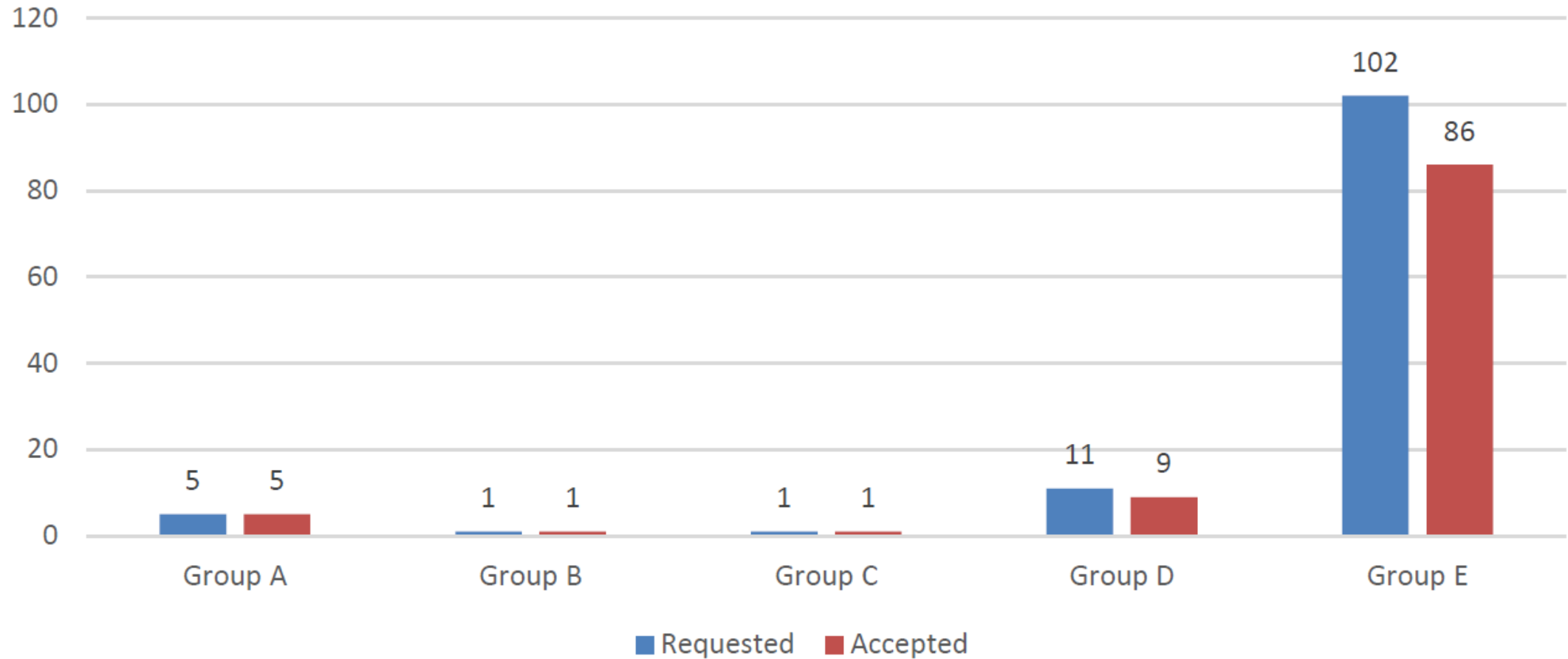
STATE FLOWER: DOGWOOD

VIRGINIA

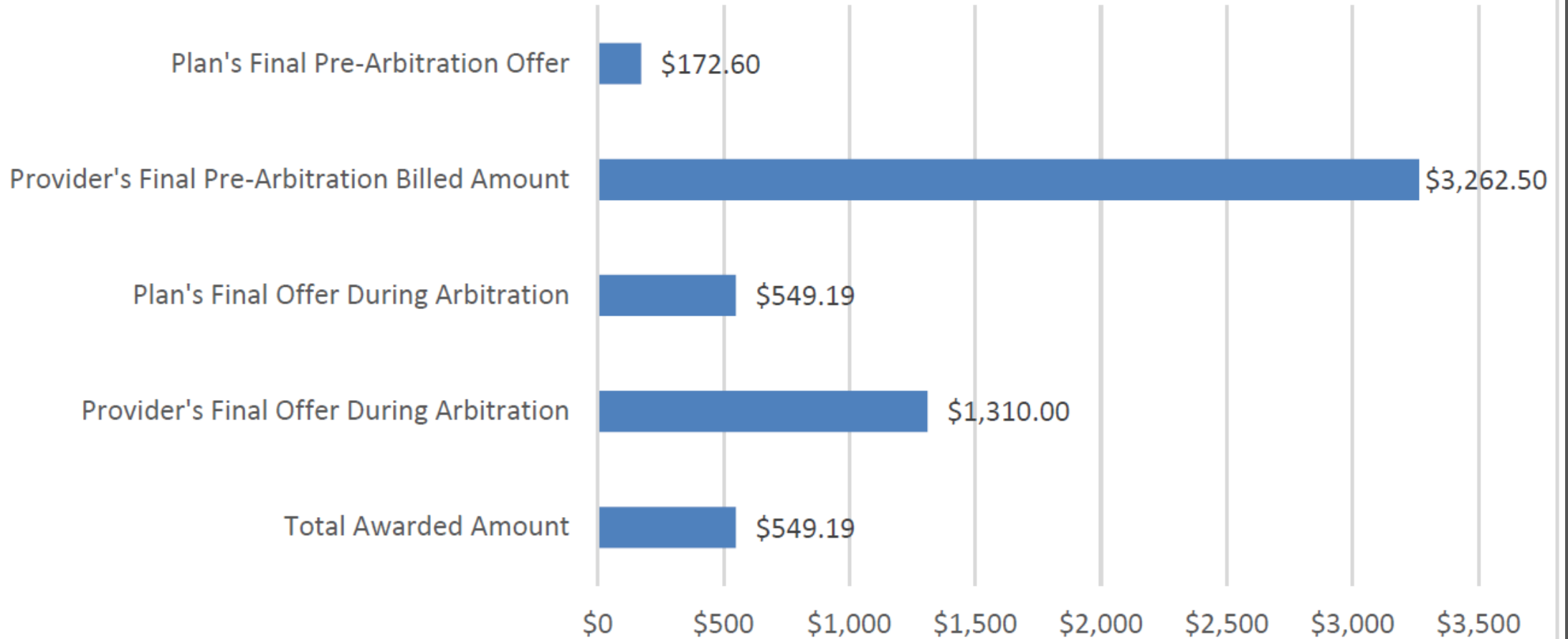


- Patients held harmless
- Covers out-of-network hospital emergency care + non-emergency out-of-network care at in-network facility
- Insurer pays “commercially reasonable amount”*
- Option for arbitration

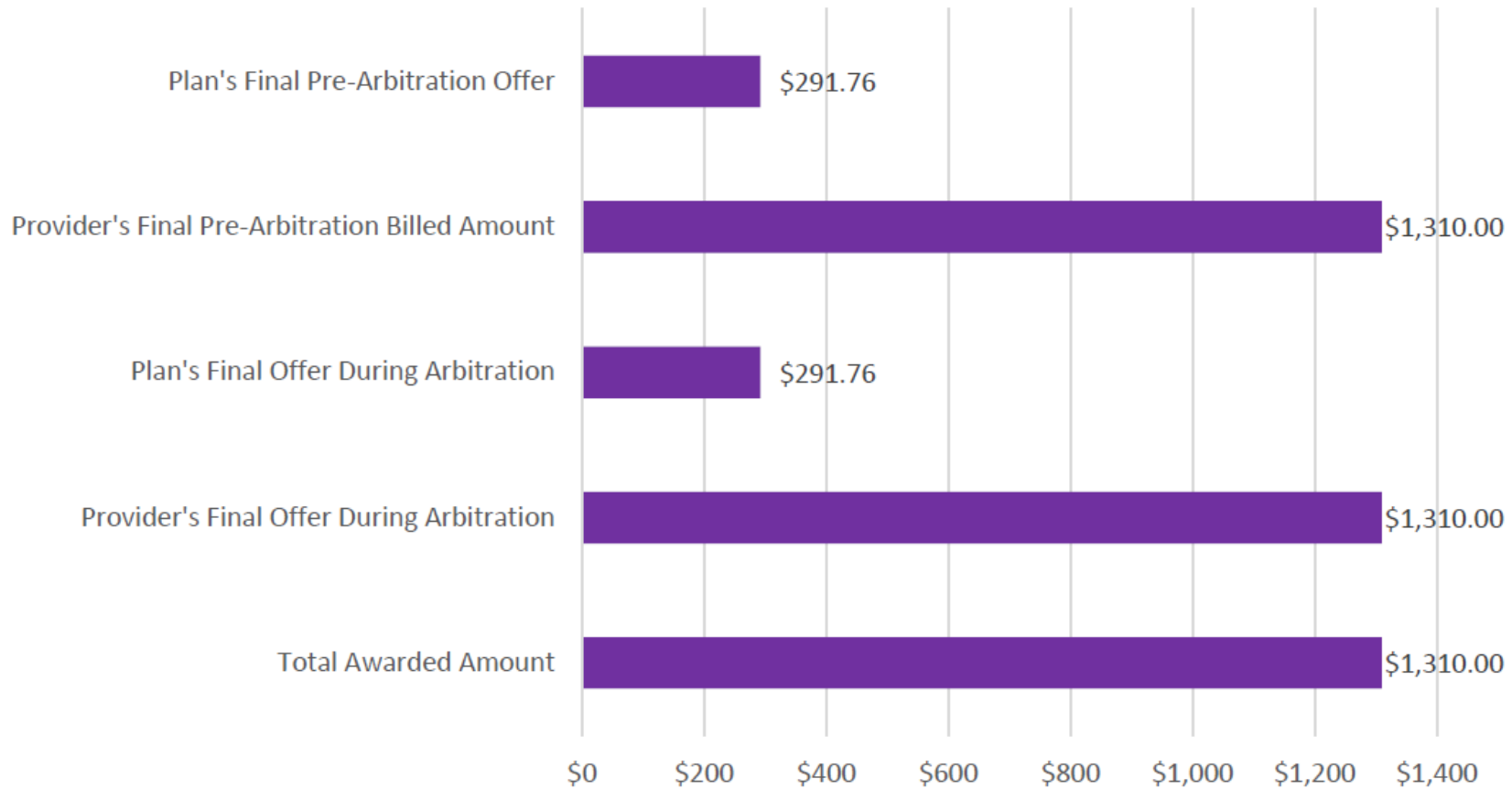
Five Provider Groups Have Submitted 120 Separate Requests for Arbitration 102 Have Been Accepted

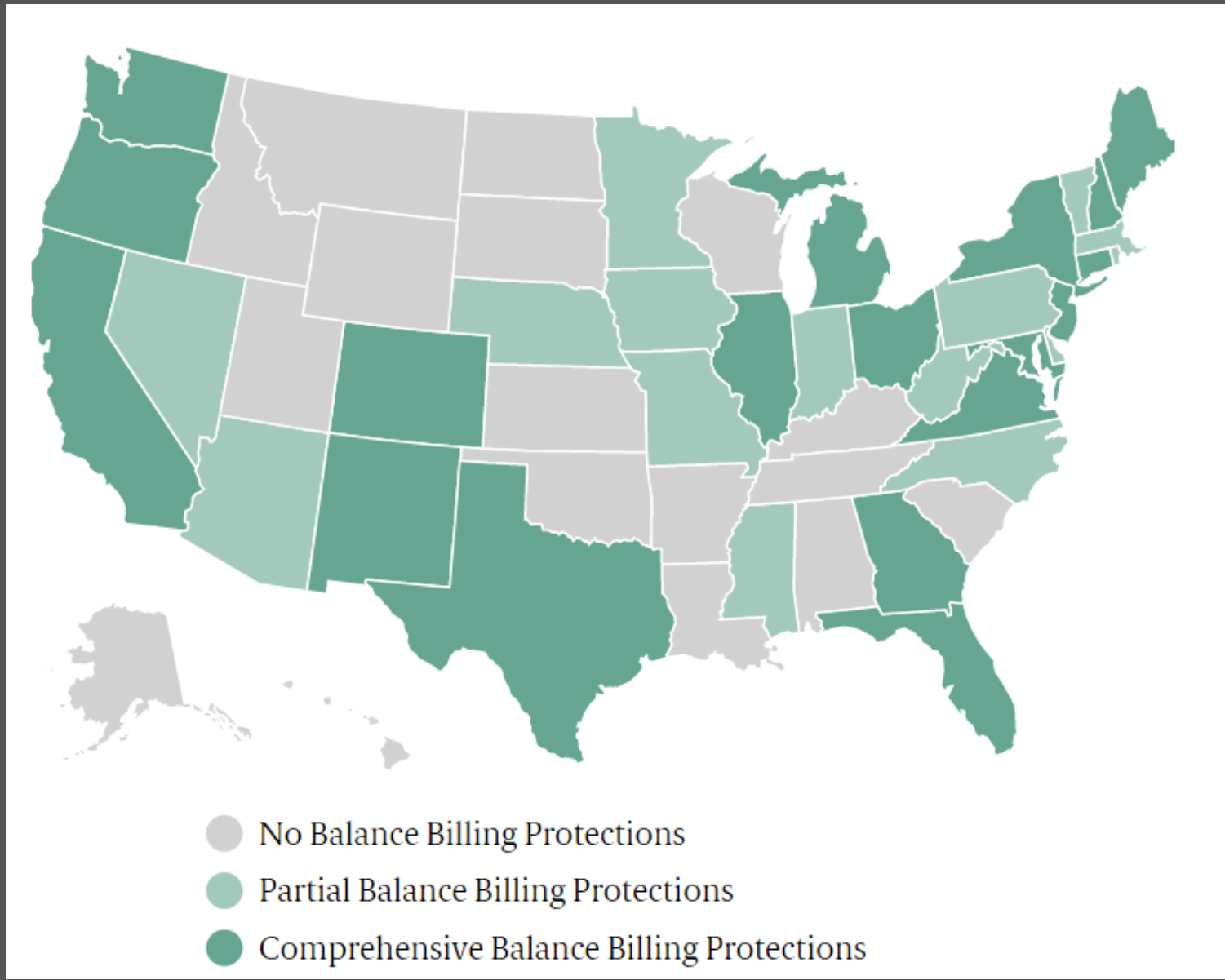


One Arbitration Decision Favored the Health Plan
Specialty: Anesthesia
Facility: Freestanding Outpatient Surgery

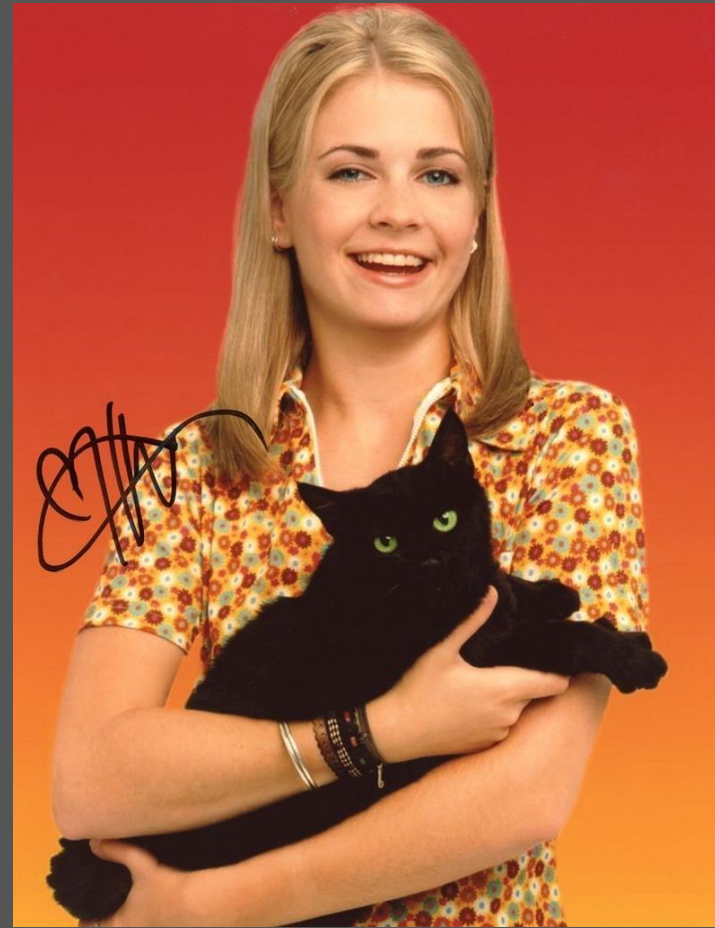


Two Arbitrations Were Decided in Favor of the Provider
(\$ Dollars Aggregated)
Specialty: Emergency Medicine
Facility: Community Hospital





ERISA*



*Employee Retirement Income Security Act of 1974

BENCHMARK

U.S. SENATE COMMITTEE ON
Health, Education
Labor & Pensions

ARBITRATION



BOTH



2019

The New York Times

*Ban on Surprise Medical Bills May Pass
After All*

Dec. 8, 2020

The
Intercept_

EFFORT TO TAKE ON SURPRISE MEDICAL BILLING IN CORONAVIRUS STIMULUS COLLAPSES



Akela Lacy

December 8 2020, 1:47 p.m.



Dec. 11, 2020

POLITICO

By SUSANNAH LUTHI and RACHEL ROUBEIN
12/11/2020 02:01 PM EST
Updated: 12/11/2020 08:01 PM EST

HEALTH CARE

Lawmakers strike deal to end 'surprise' medical bills

They're hoping to include a deal in a year-end package after previous efforts to shield patients from large bills fell apart.

No Surprises Act

- Consolidated Appropriations Act of 2021
- Signed December 27, 2020
- Effective date January 1, 2022

No Surprises Act

SCOPE OF SERVICES ADDRESSED



No Surprises Act

Patients:
Held harmless



Reimbursement Model:
Arbitration



Independent Dispute Resolution (IDR)

- 30 days to negotiate a deal before request IDR
- After the 30 days, 4 days to request IDR
- No threshold amount
- Batching allowed (sort of)
- “Baseball-style”
- Payment: “loser pays”



IDR Criteria

- Training, experience, quality, and outcomes
- Market shares of parties
- Acuity of patients/complexity of cases
- Teaching status, case mix, scope of services of facility
- Good faith efforts by parties to contract
- Contracting rate history from last four years
- Qualifying Payment Amount
- Cannot consider:
 - Billed charges
 - Payment rates by public payors

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Qualifying Payment Amount

Patients:
Determine co-pay



Arbitration:
IDR criteria



...anchor[if
payment a
overall app

...arbitrator
QPA] amo



to the qualifying
with Congress'
surprises Act.

closest to [the

U.S. SENATE COMMITTEE ON

Health, Education
Labor & Pensions



... we wrote this law with the intent that arbiters give each arbitration factor equal weight and consideration...

To match Congressional intent, your implementation of the law should ensure an IDR process that...does not cause any single piece of information to be the default one considered.

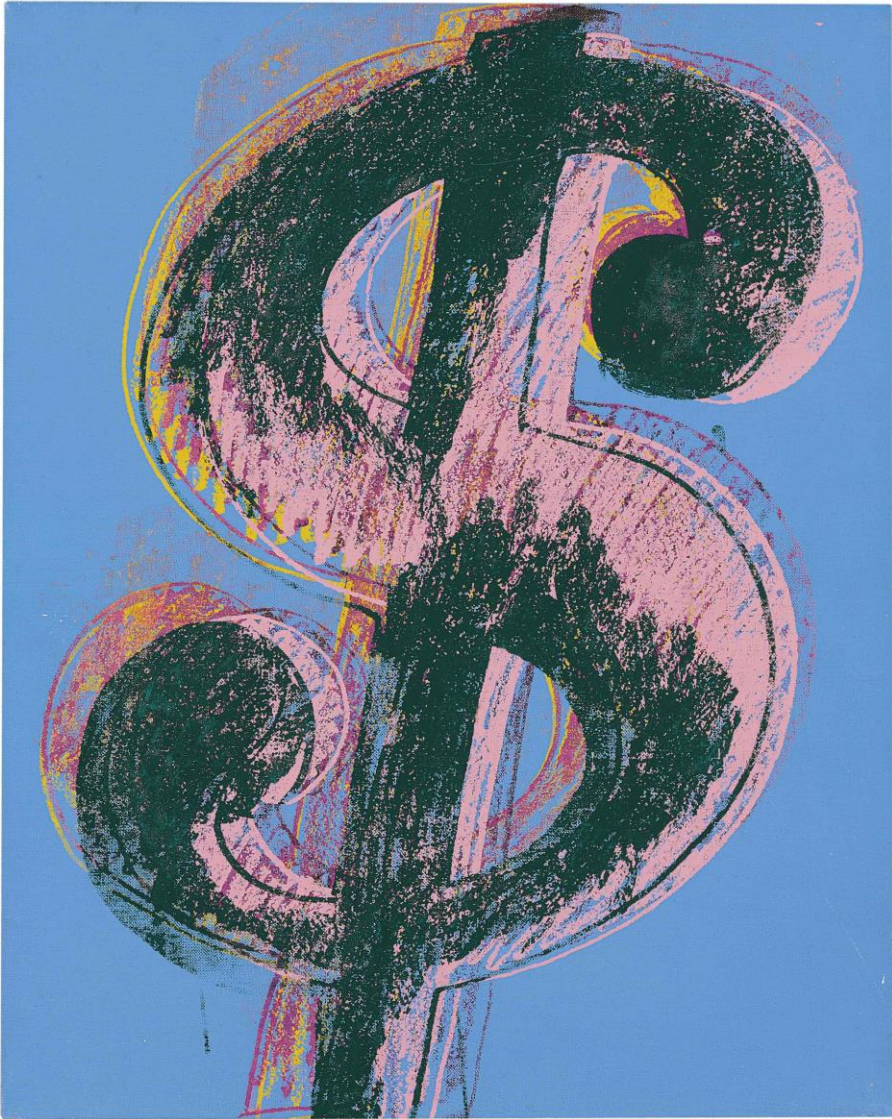
...refrain from issuing guidance...that would give preference to one factor over the others...

THE JOYS OF YIDDISH

LEO
ROSTEN

author of THE EDUCATION
OF H*Y*M*a*N K*a*P*L*a*N

Chutzpah is that quality enshrined in a man who, having killed his mother and father, throws himself on the mercy of the court because he is an orphan.



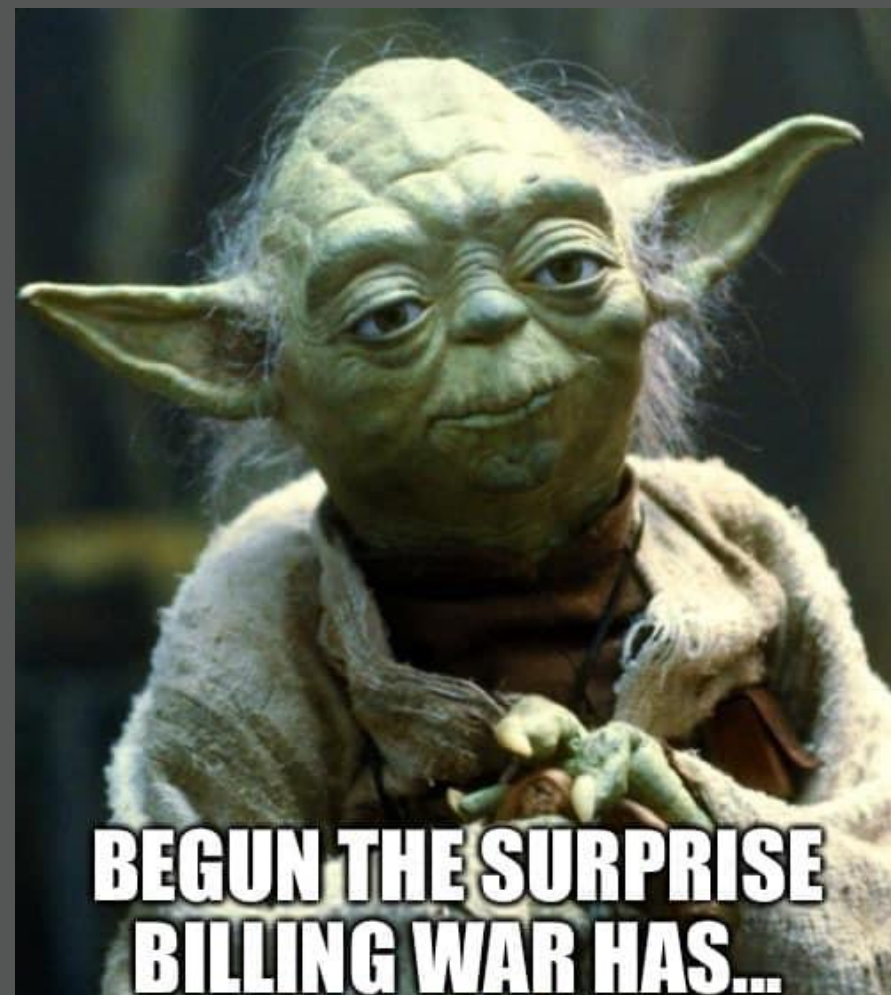
[UnitedHealth Group] handily beat Wall Street expectations for earnings and revenue, bringing in \$70.2 billion in the first quarter, up 9% year over year. Net income of \$4.9 billion was up almost 44% year over year...

Envision cut from UnitedHealthcare's network

Published Jan. 5, 2021

UnitedHealthcare has cut noted academic health system Montefiore and its 85-plus radiologists out of its network...

January 15, 2021



Where Are We Now?

Interim Final Rule #1: Released July 2021

Interim Final Rule #2: August/Sept/Oct

Start Date: January 1, 2022

Get Involved!

#radvocracy





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Surprise billing is one of the most evil practices in American health care.



Very true. It's also one of the most misunderstood.

THANK YOU

A group of people are shown from behind, hugging each other on a hillside. The image is overlaid with a blue tint. The people are wearing backpacks, suggesting they might be hikers or travelers. The background shows a landscape with some vegetation and a clear sky.

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