

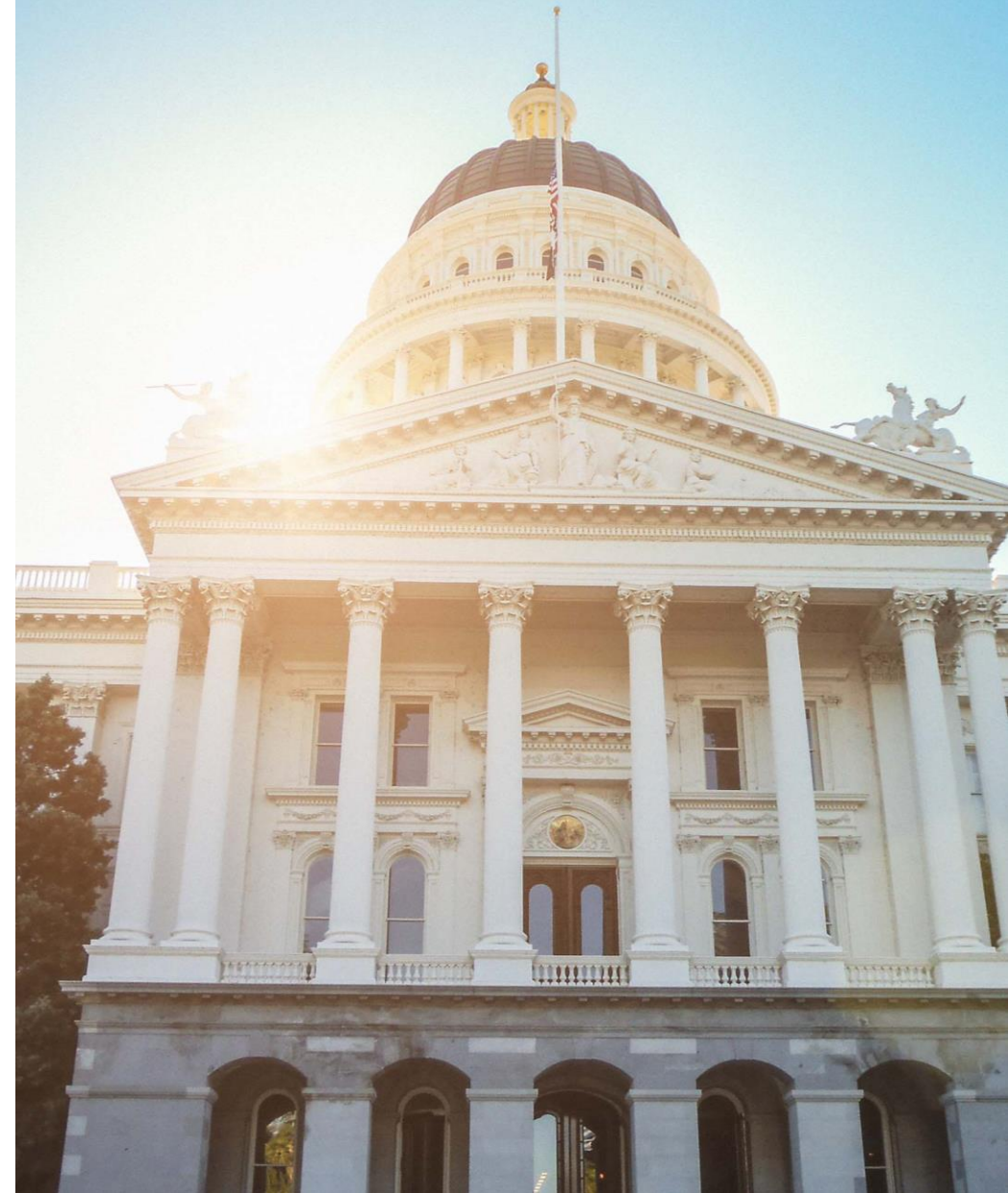


**CALIFORNIA
MEDICAL
ASSOCIATION**

Surprise Billing: Ensuring Congress Avoids California's Unintended Consequences

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How Did We Get Here?

- Bad behavior in the market
- Narrow payor networks
- High deductible plans
- Inadequate benefits



How Did We Get Here?



- Political Pressures
 - Emergency services balance billing prohibition
 - Prospect Medical Group, Inc V. Northridge Emergency Medical Group
 - 18 bills introduced during 2000-2015
 - Consumer complaints

California Legislation



- AB 533 – OON Rate: 100% of Medicare in all settings
 - Supporters: Health Committee Chairs, Assembly and Senate leadership, labor unions, health plans, consumer groups and Chamber of Commerce
 - CMA defeated on concurrence
- AB 72 – OON Rate: Greater of 125% of Medicare or payors' average contracted rate

AB 72 (Effective July 1, 2017)



- Limits billing practices of out-of-network physicians providing non-emergent, covered services at in-network facilities
- Insurers must reimburse at interim rate - greater of 125% of Medicare or insurer's average contracted rate for same service in that region
- PPOs - physicians can avoid billing prohibition by obtaining advanced consent from patient
- Independent dispute resolution process (IDRP) available



AB 72: Unintended Consequences

- Disincentivized contracting
- Low interim rate has shifted too much leverage to insurers
- Predatory payor behavior:
 - Cancelling long-standing contracts
 - Imposing significant rate cuts on hospital-based physicians
 - Refusing to renew contracts
 - Reducing patient access to in-network physicians
 - Could jeopardize emergency on-call system

AB 72: Unintended Consequences



- Accelerating consolidation of independent physicians with hospitals and private equity firms driving up costs
- IDRPs not working
 - Arbitrator has affirmed insurer's payment amount in 100% of filings
 - Process is burdensome for physicians



AB 72: IDRPs Challenges

- Arbiters lack training and qualifications
- Unfair burden of proof on physician
- No process to allow physician submission of contracted rate
- Lack of training on how to consider evidence
- Failure to consider all relevant information
- 100% of decisions have been in favor of insurer



AB 72: CMA's Physician Survey

- 88% said AB 72 allowed insurers to shrink physician networks, decreasing patient access in their community
- 79% said AB 72 negatively impacted the availability of ER and on-call specialists who respond to emergencies
- 94% have experienced contracting difficulties since AB 72
- 91% agree that federal bills modeled after AB 72 will accelerate consolidation of independent practices with larger systems
- 77% agree that federal bills modeled after AB 72 will disproportionately harm rural areas



Federal Legislation: Surprise Billing

- Political environment similar to California:
 - Narrow networks
 - Consumer complaints: 18% of emergency visits and 16% of in-network hospital stays resulted in at least one out-of-network charge for ERISA plans (Kaiser Family Foundation)
 - ERISA self-insured plans running relentless national ads
 - New player: private equity ran multi million dollar ad campaign
 - Strong bipartisan agreement to eliminate

Federal Advocacy

CMA physician leaders made multiple advocacy trips to DC to warn Congress about negative impacts of AB 72



CMA's Message to Congress: Avoid AB 72



Any legislative fix must:

- Protect patients from surprise bills
- Resolve disputes via fair baseball arbitration process (not IDR)
- Arbitration criteria to include appropriate rates from an independent database
- Ensure insurers maintain appropriate network of physicians



Unified Support for HR 3502 Ruiz/Roe

- Based on proven, successful New York model
- Protects patients from surprise bills
- Establishes baseball arbitration system to resolve disputes
- Payment criteria includes 80 percentile of billed charges from independent FAIR Health Database
- Few cases to IDR because insurers are incentivized to resolve disputes
- Premiums and costs stable

Future Federal Advocacy

- AMA, CMA, states and national specialties are united
- Stopped bad bills from moving further through Congress
- Slowed the progress to ensure more thoughtful solutions
- Continuing to support Ruiz/Roe framework



Future California Advocacy

- AB 1174 attempts to address payor contracting abuses
- Implementation hearings, IDR fixes & network audits





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Thank You