



# LEGISLATIVE ANALYSIS

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## Surprise Billing Legislation: Side-by-Side Comparison

**Last Updated: December 16, 2020**

<b>Bill</b>	<b><a href="#">Lower Health Care Costs Act (December 2019 agreement) and H.R. 5800, Ban Surprise Billing Act<sup>1</sup></a></b>	<b><a href="#">No Surprises Act (Final Agreement)</a></b>	<b><a href="#">H.R. 5826, Consumer Protections Against Surprise Medical Bills Act</a></b>
<b>Committee</b>	<b>Energy &amp; Commerce Education &amp; Labor</b>	<b>All 3 committees</b>	<b>Ways &amp; Means</b>
<i>Cost-sharing with patients</i>	Limited to in-network rate for out-of-network emergency care, air ambulance services, and out-of-network services at in-network facilities provided without consent	Limited to in-network rate for out-of-network emergency care, for air ambulance services, and out-of-network care at in-network facilities provided without consent	Limited to in-network rate for out-of-network emergency care and out-of-network services at in-network facilities provided without consent
<i>Consumer deductible</i>	Costs of out-of-network care to count toward in-network deductible. <sup>2</sup>	Costs of out-of-network care to count toward in-network deductible. A group or individual health plan is required to include the amount of in-network and out-of-network deductibles and max limits on their plan or insurance identification card issued to the enrollee.	No out-of-network care would count toward in-network deductible. Requires insurance cards to provide consumer info regarding the nearest participating hospital, consumer assistance contact info, deductibles, and other cost-sharing info. <sup>3</sup>

<sup>1</sup> The surprise billing provisions in the Energy & Commerce Committee’s Lower Health Care Costs Act and Education & Labor Committee’s Ban Surprise Billing Act are substantially equivalent with one noted exception (see footnote 2) so they have been presented as one proposal here.

<sup>2</sup> H.R. 5800 also attributed costs of out-of-network care to the out-of-pocket maximum and requires group health plans and issuers to include the in-network and out-of-network deductibles and out-of-network limitations under the plan or coverage on the insurance identification cards.

<sup>3</sup> There are additional provisions on Continuity of Care, Maintenance of Price Comparison Tool, and Assignment of Benefits not reflected in this chart.

<b>Committee</b>	<b>Energy &amp; Commerce Education &amp; Labor</b>	<b>All 3 committees</b>	<b>Ways &amp; Means</b>
<i>Balance billing for out-of-network care</i>	Prohibited for more than in-network cost-sharing amount and prohibits certain balance billing for out-of-network services unless the patient is given 72-hour notice of network status and estimate of charges prior to receiving services. Providers will be charged a \$10,000 per violation civil monetary penalty for sending prohibited balanced bills.	Prohibited for more than in-network cost-sharing amount and prohibits certain balance billing for out-of-network services unless the patient is given 72-hour notice of network status and estimate of charges prior to receiving services. Providers will be charged a \$10,000 per violation civil monetary penalty for sending prohibited balanced bills.	Prohibited for more than in-network cost-sharing amount and prohibits certain balance billing for out-of-network services unless the patient is given 72-hour notice of network status and estimate of charges prior to receiving services. Providers will be charged a \$10,000 per violation civil monetary penalty for sending prohibited balanced bills.
<i>Resolving cost disputes between providers and payers</i>	<i>Below \$750 (\$25,000 for air ambulance services):</i> Market-based benchmark of median in-network rate in geographic area <i>Above \$750 (\$25,000 for air ambulance services):</i> Arbitration. Arbiter must look at median in-network rate in geographic area and is prohibited from looking at billed charges.	30-day open negotiation period to settle out-of-network claims and if unable to reach an agreement during the negotiation period, they may access a binding arbitration process. Arbiter must look at median in-network rate in geographic area and is prohibited from looking at billed charges.	30-day open negotiation period to settle out-of-network claims and if unable to reach an agreement during the negotiation period, they may access a binding arbitration process. Arbiter must look at median in-network rate in geographic area and is prohibited from looking at billed charges.
<i>Reduction in insurance premiums</i>	1% each year	TBD	0.5-1% each year
<i>Savings to federal government</i>	\$24 billion over 10 years	TBD <sup>4</sup>	\$18 billion over 10 years

<sup>4</sup> Congressional Budget Office analysis is still pending. It should be in the same general range as Energy & Commerce, Education & Labor, and Ways & Means bills.