



Comprehensive State Laws Enacted to Address Surprise Balance Billing

States have taken various legislative approaches to protect consumers from surprise balance billing, from outright prohibitions on surprise balance billing in certain circumstances to transparency requirements that enhance consumer education and awareness of out-of-network health care services. This chart highlights multiple provisions that states have enacted to create comprehensive strategies to regulate surprise balance billing.

	Prohibits billing in excess of in-network rates in the case of surprise bills		Holds consumers harmless in the case of surprise billing disputes between providers and carriers.	Sets reimbursement standards for surprise balance bills.	Transparency requirements for providers			Transparency requirements for carriers		Creates a dispute resolution process, governed by the state or an independent entity, to resolve surprise balance bills.
	For emergency services	For non-emergency services ¹			Requires notice that out-of-network services or fees may be charged (where applicable).	Requires patient authorization prior to receipt of out-of-network services in the case of non-emergency situations.	Requires distribution of cost estimates, including out-of-network costs, upon request.	Requires distribution of educational materials explaining out-of-network benefits and risks.	Requires monthly (at minimum) provider directory updates.	
CA	X	X	X	Greater of: ² <ul style="list-style-type: none"> Average contracted rate 125% of Medicare charges 	X	X		X	X	X
CT	X	X	X	Greater of: <ul style="list-style-type: none"> Amount carrier would pay an in-network provider The usual, customary and reasonable rate Medicare rate 	X		X		X	
FL	X	X	X	The lesser of:	X			X	X	X

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FL				<ul style="list-style-type: none"> The provider's charges The usual and customary provider charges for similar services in the community where the services were provided The charge mutually agreed to by the carrier and the provider 						
IL	X	X ³	X		X			X		X ⁴
NH	X	X ⁵		Fees will be based on the commercially reasonable value, based on payments for similar services from New Hampshire insurance carriers to New Hampshire						X

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				health care providers.						
NJ				<p>If a provider and carrier cannot agree on a fee, an independent arbiter will make a determination of cost considering:</p> <ul style="list-style-type: none"> • The level of training, education, and experience of the health care professional • The provider's usual charge for comparable services • The circumstances and complexity of the particular case 	X		X	X	X	X

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NJ				<ul style="list-style-type: none"> Individual patient characteristics The average in-network and out-of-network amounts paid by the carrier 						
NY	X	X		<p>If a provider and carrier cannot agree on a fee, an independent arbiter will make a determination of cost considering:</p> <ul style="list-style-type: none"> Provider training, education, experience, and usual charge for disputed services The circumstances of the case 	X		X	X	X	X

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				<ul style="list-style-type: none"> The usual and customary cost of service Disparities between the provider's fee and that paid by the carrier for similar services 						
OR	X	X	X	Rates set under the Oregon regulatory authority. ⁶	X					

¹ Except as otherwise noted, this applies when out-of-network services were received in an in-network facility and patients were either 1) not given notice that services would be performed by an out-of-network provider, or 2) not given the ability to choose an in-network provider.

² Applies in the case of non-emergency services only.

³ Specifies the law applies to radiology, anesthesiology, pathology, emergency physician, or neonatology providers.

⁴ Required the Department of Insurance to publish an approved list of arbitrators for provider billing disputes.

⁵ Limited to providers performing anesthesiology, radiology, emergency medicine, or pathology services.

⁶ Current rates are available at: <https://dfr.oregon.gov/help/committees-workgroups/Pages/balancebilling-reimbursement-rac.aspx>