Surprise medical bills: Physicians want market-based fixes

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What's the news: The AMA and 110 other organizations representing hundreds of thousands of American physicians are urging Congress to refine surprise billing legislation to ensure the final version targeting unanticipated out-of-network care "represents a fair, market-based approach that treats all stakeholders equally while protecting patient access to care."

Why it matters for patients and physicians: There are instances when unanticipated coverage gaps happen "and patients unknowingly or without a choice receive care from an out-of-network physician or other provider."

In those cases, the physicians' letter says, "patients should be held harmless for any costs above their in-network cost-sharing, and their cost-sharing should count toward deductibles and out-of-pocket maximums. Patients should be completely removed from any subsequent payment disputes between their health insurance company and an out-of-network provider when they experience an unanticipated coverage gap," says the letter, sent Oct. 16 to congressional leaders and broadly shared with members of the U.S. House and Senate.

However, "rate-setting provisions in current bills further shift marketplace leverage to health insurers at the expense of providers. "That" will likely lead to access problems for patients seeking hospital-based care from on-call specialists, as well as precipitate staffing shortages in rural areas and other underserved communities."

More than 80% of the budgetary impact of the rate-setting mechanism in the "Lower Health Care Costs Act" (S. 1895) "would arise from changes to in-network payment rates," according to the analysis conducted by the Congressional Budget Office, which reached a similar conclusion regarding another bill, the "No Surprises Act" (H.R. 2328).

The end result? "In-network providers who have not contributed to the problem will bear the impact of the rate-setting scheme," says the letter sent by the AMA and the other physician organizations.

Physicians point to the success that New York state has had with a law mandating an independent dispute-resolution (IDR) process to deal with medical bills arising from unanticipated out-of-network care. New York patients have saved $400 million-plus on emergency care alone and out-of-network billing has fallen 34% since 2015, according to New York State Department of Financial Services Supervisor Linda Lacewell.

What's next: The AMA and the other physician organizations signing onto the letter recommend specific fixes to the "No Surprises Act" to:

- Lower the $1,250 threshold to trigger an appeals process.
- Allow for IDR batching of claims involving identical plans and providers, and the same or similar procedures that happen within a reasonable time frame.
- Change the initial payment to reflect a commercially reasonable rate based on actual local charges determined through an independent claims database.
- Establish measurable and enforceable network adequacy requirements.

Congress is expected to act in the coming months.