Hospital Chargemaster Pricing and Surprise Medical Bills

Prepared by the Policy Surveillance Program Staff

SUMMARY
This dataset identifies laws and policies in 50 states and the District of Columbia that have implemented laws mandating transparency of hospital charges, or protections against surprise medical billing, and is effective as of August 7, 2020.

ABOUT THE HOSPITAL CHARGEMASTER AND SURPRISE MEDICAL BILLING DATA

Hospitals are often challenged by patients who, as a result of being uninsured or having received services from an out-of-network provider have not negotiated medical billing rates through a payer. Providers are then unable to recoup reimbursement claims from a payer for services rendered to these patients. In response, many hospitals bill uninsured or self-pay patients at their standard charges or “chargemaster rates.” Chargemaster rates represent an extensive list, created and maintained by hospitals that contain a price for each service the hospital may charge. As a protection for self-pay patients, many states have enacted laws mandating transparency of hospital chargemaster rates.

By contrast, most surprise medical bills are a result of insured patients receiving unexpected bills for rendered medical services. The bill comes as a surprise because the insured at the point of service was of the belief the costs were covered by their health plan. Insureds then become liable for the difference in cost between covered health services, and those which are not. The prevalence of this costly misunderstanding also referred to as “balance billing” is the impetus for state law protections against surprise medical bills.

The hospital chargemaster and surprise medical billing dataset reviews the types of hospital price transparency required on behalf of hospitals, including publication of charge information and direct disclosures to patients for expected costs of services. The dataset also analyzes the variability of settings for which surprise medical billing laws are applied and the corresponding limitations placed on providers and health plans to balance bill patients. Finally, the dataset analyzes additional policies that proponents of hospital pricing transparency have identified as useful indicia in determining actual costs of medical services such as: (1) all payer-claims databases; (2) consumer-facing price comparison tools; (3) consumer protection laws applied to hospitals; (4) policies which determine the reasonable value of medical services; and (5) contract law theories which limit a hospital or providers’ ability to recoup costs billed to patients.
This map shows state-level Hospital Chargemaster and Surprise Medical Billing policies, with questions designed to break down the degree to which these elements are included.

As of August 7, 2020:

- Thirty-three states have passed laws requiring hospital transparency.
- Seven states specifically require publication of pricing information to the hospital website.
- Nineteen states require disclosures to patients related to expected costs of services.
- Only one state has a law which requires a hospital to disclosure expected costs of services to uninsured patients; thirteen more states require such disclosure to all patients.
- Twenty-one states maintain a hospital price comparison tool for consumers.
- Forty-one states have surprise medical billing laws.
- Sixteen states include in their surprise medical billing law a “hold harmless” provision absolving an insured from any liability from a surprise medical bill.
- Twenty-three states apply surprise medical billing protections to emergency care services.
- Twenty-one states apply surprise medical billing protections to care received by out-of-network providers at an in-network facility.
- Seven states limit their surprise medical billing protections to in-network care only.

This is a cross-sectional dataset and captures the law as it existed on August 7, 2020.

NAVIGATING THE DATA

There are two ways to navigate the data by clicking the Filter tab or the Explore tab — for each option, the data can be visualized in a map and table format or in jurisdiction profiles.

Filter

The dataset homepage will default to the Filter tab. Here, users may answer a series of questions to learn more about the characteristics of the laws. Answering more than one question will show all the jurisdictions that meet the combined criteria. Criteria selected will be listed above the questions, and can be removed by clicking the white X or by clicking “Reset” above the questions.

Explore

Users can access Explore by clicking the Explore tab in the bar above the questions. Using Explore, users will see the answers to one question across all jurisdictions.

The primary questions in this dataset are:

1. Does the state require hospital price transparency?
2. Does the state have a statute that prohibits surprise medical billing?
3. Does the state have a law that prohibits balance billing?
4. Does the state require an All-Payer Claim Database?
5. Does the state maintain a consumer-facing price comparison tool?
6. Does the state prohibit “most favored nations clauses” / preferred provider agreements?
7. Are hospitals allowed to pursue legal action against patients for payments?
8. Does the state have a consumer protection statute that applies to hospitals?
9. Does that state have a law that determines the “reasonable value” of healthcare services?
10. Have courts determined the “reasonable value” of healthcare services?
11. Have the courts invalidated balance billing?
12. Have courts found hospital-patient agreements (or their equivalents) to be invalid contracts?
13. Have courts found hospital-patient agreements (or their equivalents) to be unenforceable contracts due to their unconscionability?

DISPLAYING THE RESULTS

There are two display modes once criteria have been selected by using either the Filter or Explore tab — Map display mode and Profiles display mode.

Map Display
LawAtlas.org dataset homepages default to the map display mode. When querying the data using the Filter tab, all jurisdictions that meet the criteria selected will display in one tone of yellow. Those jurisdictions that do not meet the criteria selected will be colored gray. When querying the data using the Explore tab, the map will illuminate with colors from yellow to red that are associated with the various answer choices (the color-coding is defined by the key to the left of the map).

Below the map, a table will appear. Using the Filter or Explore tab to navigate the questions will change the display:

- Using the Filter tab, you can select an unlimited number of criteria and the applicable jurisdictions that meet the combined criteria will be displayed in the table below.
- Using the Explore tab, you can isolate a single criterion and the applicable jurisdictions will appear in the table below.

Profiles Display
The Profiles display presents the results of the criteria selected in a text-based format for each applicable jurisdiction. Using the Filter tab, jurisdictions that meet the criteria selected will display. Using the Explore tab, jurisdictions that meet the criterion selected will display. If no criteria are selected, the full profiles for each state will appear under both Filter and Explore.

Profile Legend
Within each Profile box, above the questions and answers, there are additional options and information useful in exploring the law:

| §§ | Toggle Legal Text – Selecting this option will show all the legal text used to answer questions for this jurisdiction. |
Toggle Full Place Profile – Selecting this option will show all questions and answers for this jurisdiction, regardless of what was selected using the Filter or Explore tabs.

Toggle Size – Selecting this option will make the profile larger, but will not change the information displayed.

Map and Profile Legend
There are a few symbols to be aware of in both Map and Profiles display modes:

- **Section Symbol** – Clicking this symbol will open a window that displays excerpts from the law correspond to the question and answer.

- **Caution Note** – Clicking on this symbol will open a small window that displays text that describes important caveats about the question and answer.

DATASET RESOURCES
Each dataset homepage includes the following resources available for download:

- **Data**: The Data file exports in CSV format and may contain two tabs. The “Statistical Data” tab contains the legal variables coded in the dataset, displayed as values defined in the accompanying Codebook. The “Summary Data” tab contains the legal variables coded in the dataset in text form, as well as the accompanying citations and any caution notes that may be included. Note: if there is only one tab available for download it will be the “Statistical Data” as described above.

- **Codebook**: The Codebook defines all of the coded variables in the dataset. The Codebook lists the question, question type, variable name, variable value and variable label. The Codebook should be used in conjunction with the Statistical Data extract.

- **Research Protocol**: The Research Protocol is a comprehensive document that outlines the entire methodology of the project, including the scope, inclusion and exclusion criteria, data collection methods, definitions, coding scheme decisions, as well as the quality control process.

CONTACT US TO REPORT AN ISSUE WITH THE DATA
While reasonable efforts have been made to ensure that the information in this resource is complete and accurate, the creators make no guarantee that it is error free; if you encounter information that you believe is inaccurate, please contact us at lawatlas@temple.edu.
This collection of laws does not provide legal advice nor does it address enforcement of laws, administrative policies, case law, or any other sources of law. Should you have a specific question about these laws in your state, please contact an attorney in your jurisdiction.