



PULSE

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Biden Administration Issues Final Surprise Billing Rules and FAQs

The final rules address the procedure for payers and providers to agree on payment for out-of-network services and revisions regarding the qualifying payment amount determined by independent arbiters.

The Biden administration has released final surprise billing rules as part of the No Surprises Act, a federal law enacted in January 2021 that safeguards patients against out-of-network medical fees when they seek care at in-network clinics.

The procedure for payers and providers to agree on payment for those out-of-network services is outlined in the new surprise billing guidelines.

Payment rates used to be submitted by payers and providers to an independent arbiter chosen by the government. The qualifying payment amount (QPA), also known as the qualifying payment rate (QPR), is determined by the arbiter while taking other criteria into consideration, such as provider expertise and training, the provider's market share and the difficulty of providing the service.

The use of the QPA as the main determining element in an arbiter's decision has drawn criticism from provider associations, who claim that doing so benefits payers over providers.

Notably, the Texas Medical Association successfully challenged the surprise billing arbitration process on the basis of the QPA concern. The

requirement that arbiters choose payment offers that are most similar to the QPA unless new information necessitates a closer examination was overturned by a district court.

The American Hospital Association (AHA) and the American Medical Association (AMA) also filed a lawsuit opposing the interim final rule implementing the dispute process, claiming that lawmakers did not intend for the QPA to receive such a prominent role in those rules. The case is still pending.

In light of these cases, the latest final surprise billing rules reverse the "rebuttable presumption" that favors the QPA.

The final rules state that arbiters "shall, after taking into account the QPA and other permissible information supplied by the parties, select the offer that best represents the value of the item or service under dispute."

The Biden administration said that the rules "will help providers, facilities and air ambulance providers engage in more meaningful open negotiations with plans and issuers and will help inform the offers they submit to certified independent entities to resolve claim disputes."

AHA announced in August that it is closely reviewing the final surprise billing rules, [according to a news release](#).

Additionally, the Departments of Health and Human Services, Labor, and the Treasury issued a lengthy set of [Frequently Asked Questions](#), in which they address issues such as the applicability of the regulations to no-network and closed network plans (e.g., reference-based pricing plans); how the QPA must be calculated when a given service may be provided by different specialties; and timeliness for initial payments by payers.

[Read the rules here.](#)

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Maryland's Health Services Cost Review Commission Proposes Regulation for Hospital Payment Guidelines

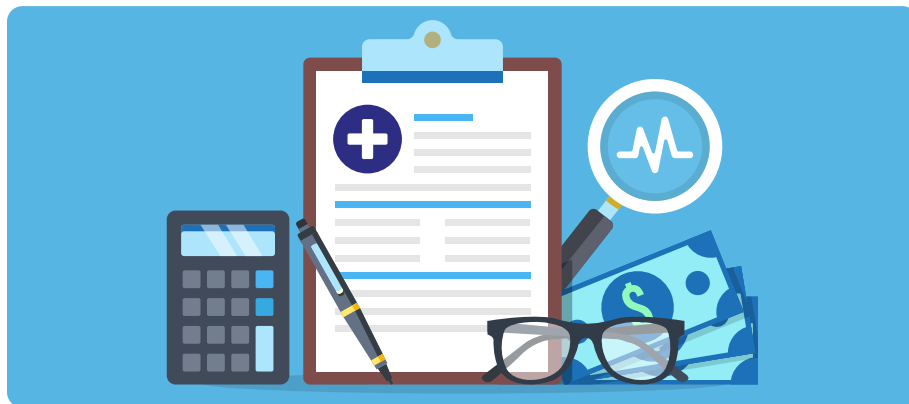
The group held a series of stakeholder meetings to draft hospital debt collection and payment plan guidelines under a new Maryland medical debt law.

Maryland's Health Services Cost Review Commission (HSCRC) published its proposed regulation related to hospital debt collection practices in the [Maryland Register](#) on Aug. 26.

This comes after a series of stakeholder meetings held earlier this spring to review 15 total draft guidelines before presenting updates to the HSCRC commission, [ACA previously reported](#).

The purpose of the stakeholder meetings was to help the HSCRC provide additional clarity and guidance while conforming to the requirements of the state's new medical debt law, [SB 514](#). The group included consumer advocates, health care providers, state regulators, consumer representatives and financial services industry members.

Leslie Bender, IFCCE, senior attorney at Eversheds Sutherland LLP, was a member of the HSCRC stakeholder group, representing ACA International and the Mid-Atlantic Collectors Association.



Under the Maryland law, a hospital must annually submit its policy on the collection of debts owed by patients as well as a specified report to the HSCRC. The HSCRC must compile these submissions into an annual medical debt collection report.

The proposed regulation is open for public comments through Sept. 26, 2022. Comments can be mailed to Dennis Phelps, Deputy Director, Audit and Compliance, Health Services Cost

Review Commission, 4160 Patterson Avenue, Baltimore, MD 21215. You can also call (410) 764-2565, email dennis.phelps@maryland.gov, or fax comments to (410) 358-6217.

[Read more about the Maryland law](#) and other states implementing medical debt laws in the January/February 2022 issue of *Collector* magazine.

Next CFPB Virtual Field Hearing Focuses on Nursing Home Debt Collection Practices

Stakeholders will have one minute for open testimony at the virtual field hearing on nursing home debt collection practices and ACA members are encouraged to participate.

The Consumer Financial Protection Bureau is continuing its focus on medical debt collections for its next event, a [virtual field hearing](#) specifically tailored to a discussion on “nursing home debt collections practices and the impact they can have on the financial well-being of caregivers, their families and friends.”

The CFPB's announcement says advocates, service providers, community leaders and members of the public are invited to the discussion and there will be one minute of open testimony for those who sign up.

CFPB Director Rohit Chopra will host the field hearing at 2 p.m. EST Sept.

8, and the opportunity to sign up for testimony is available through the RSVP process.

ACA International encourages members to testify and RSVP to the event.

The bureau's last event with Chopra also focused on medical debt

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NEWS & NOTES

HHS Allocates \$60M to Address Rural Health Care

The U.S. Department of Health and Human Services has invested nearly \$60 million in grants to bolster the rural health care workforce through the Health Resources and Services Administration, according to a press release from HHS.gov.

The change comes as a need for physicians in rural areas increases. Approximately one in five Americans live in a rural area, but only about 10% of the nation's physicians are located there, [research shows](#).

The lack of access to health care is a serious concern, especially given the widening health gaps experienced by

patients in rural areas. Between 1999 and 2021, health disparities between rural and urban areas have tripled.

[Read the release here.](#)

CMS Releases Guidance for End of COVID-19 Public Health Emergency

The Centers for Medicare & Medicaid Services (CMS) has released guidance for health care providers to prepare for the end of the COVID-19 public health emergency (PHE) and the accompanying waivers and flexibilities.

Even though the PHE is anticipated to last until 2023, CMS has urged health care organizations to get ready for the

return to pre-pandemic health and safety norms and billing procedures.

In order to identify the status of PHE blanket waivers and flexibilities when the PHE expires, the agency created a strategic strategy to assess them. There are three phases to the assessment.

[Read more here.](#)

Read More

For more health care collections news, visit ACA's Health Care Collections page at www.acainternational.org/pulse-newsletters-archive

Next CFPB Virtual Field Hearing cont. from page 2

collections. In June, the CFPB's town hall at Montana State University covered banking resources for consumers in rural areas, medical debt collections and the impact of regulations on small businesses,

among other topics, [ACA previously reported](#).

The CFPB also recently released research in a [new blog](#) exploring the connection between financial assistance

for medical care and medical collections. If you have questions or ideas to share before the CFPB's field hearing, contact ACA's advocacy team at advocacy@acainternational.org.



DATAWATCH

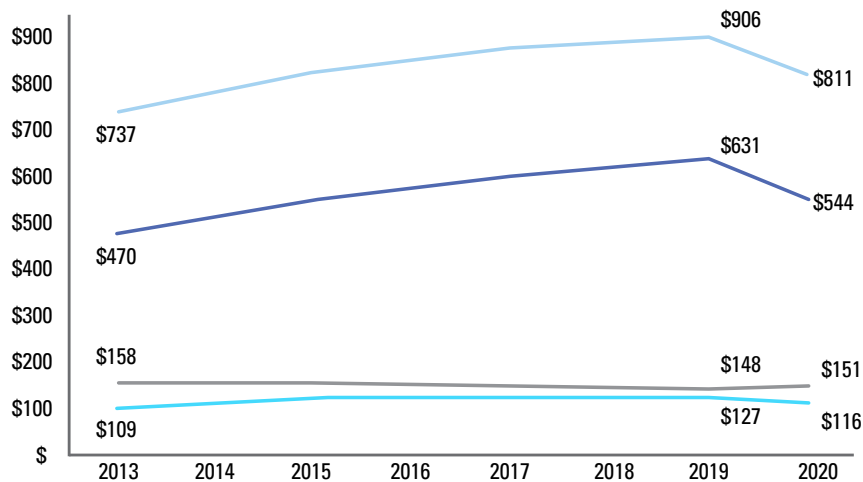
COVID-19 Pandemic Sparked Increase in Out-of-Pocket Health Care Spending

Between 2013 and 2019, out-of-pocket health care spending on outpatient services rose faster than spending on inpatient services, while prescription drug spending decreased, according to an [issue brief](#) from the Employee Benefit Research Institute. The findings show the share of out-of-pocket health care spending for patients with employer-sponsored health coverage increased by nearly 2% between 2013 and 2019.

The brief represents medical and pharmacy claims for over 45 million patients from the IBM MarketScan Commercial Claims and Encounters Database who were continually enrolled in an employer-sponsored health plan for at least one year between 2013 and 2020.

Patients' out-of-pocket spending on medical care grew from 17.4% in 2013 to 19% in 2019. However, due to the COVID-19 pandemic, the share of out-of-pocket expenses decreased to 16.2% in 2020.

Average Out-of-Pocket Expenditures by Type of Care, 2013-2020



Source: IBM MarketScan Commercial Claims and Encounters Database, Employee Benefit Research Institute. <https://bit.ly/3Azyb8T>



is a monthly bulletin that contains information important to health care credit and collection personnel. Readers are invited to send comments and contributions to:

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