

Provider & BCBS Proposal
February 26, 2020
S. 309 Study of Surprise Medical Bills

Section 1:

Provider Proposal: Contractual provisions holding providers financially responsible for referring patients for services that result in unanticipated out of network costs are suspended and addressed in the Report in Section 2.

BCBSVT proposal: Section 1 deleted or drafted to except policies/contracts like BCBSVT that provides for penalty in non-medically necessary out of network referral and: 1) penalties that are only incurred after formal escalation/notice to provider; 2) penalty is capped; 3) penalty is only incurred if member or employer that incurs actual damages due to higher claims cost; and 4) penalty is given to member/employer to offset such damages.

Section 2: BCBS & Provider proposal:

DFR shall issue a report by January 15, 2021 regarding the scope of unanticipated out-of-network costs for health care services borne by Vermonters with Vermont-issued health insurance and Vermont based group health plans and possible solutions to reduce the impact on consumers and employers of such costs.

- (1) The report shall include an analysis of the:
 - Causes of unanticipated out-of-network medical bills for Vermont consumers and employers
 - Data regarding the type of service providers, specialty (if applicable) and location of providers by health service area or out of state jurisdiction leading to Vermont consumers and employers experiencing unanticipated out-of-network costs
 - Amount of unanticipated out-of-network bills paid by Vermonters
 - Amount such costs increase health insurance premiums for Vermonters in fully insured plans
 - Vermont current regulatory framework that may mitigate or exacerbate such costs
 - Amount of unanticipated out-of-network bills caused by referrals from in-network providers versus other factors.
- (2) Possible mechanisms for reducing patient and employer financial liability for unanticipated out-of-network medical bills. The report shall include an analysis of benefits and drawbacks to Vermont consumers, employers, providers and payers of:
 - Congressional proposals that may have been enacted over the course of 2020, including analyzing the impact on Vermonters and the interaction between Congressional action and existing state law and rule addressing surprise billing;
 - State laws that have been enacted in other jurisdictions and state laws that could be enacted in Vermont to address unanticipated out-of-network medical bills;
 - Any recommended changes to state law or rule to address unanticipated out-of-network medical bills, including mandating that insurers are prohibited from holding providers contractually responsible for referring patients for services that result in unanticipated out of network costs.

In drafting the report, DFR must consult with interested stakeholders including the Health Care Advocate, health care provider associations, self-funded employer groups and health insurance payers.