

REFERENCE TITLE: health insurance; surprise out-of-network bills

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SB 1320**

Introduced by  
Senators Alston: Bowie, Engel, Gabaldon, Gonzales, Navarrete, Peshlakai;  
Representatives Hernandez M, Salman, Terán

### **AN ACT**

AMENDING SECTIONS 20-3111 AND 20-3113, ARIZONA REVISED STATUTES; REPEALING SECTIONS 20-3114, 20-3115, 20-3116, 20-3117 AND 20-3118, ARIZONA REVISED STATUTES; AMENDING SECTION 20-3119, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The article heading of title 20, chapter 20, article 2, Arizona  
4 Revised Statutes, is changed from "OUT-OF-NETWORK CLAIM DISPUTE  
5 RESOLUTION" to "SURPRISE OUT-OF-NETWORK BILLS".

6 Sec. 2. Section 20-3111, Arizona Revised Statutes, is amended to  
7 read:

8 20-3111. Definitions

9 In this article, unless the context otherwise requires:

10 ~~1. "Arbitration" means a dispute resolution process in which an~~  
11 ~~impartial arbitrator determines the dollar amount a health care provider~~  
12 ~~is entitled to receive for payment of a surprise out-of-network bill.~~

13 ~~2. "Arbitrator" means an impartial person who is appointed to~~  
14 ~~conduct an arbitration.~~

15 ~~3. "Billing company" means any affiliated or unaffiliated company~~  
16 ~~that is hired by a health care provider or health care facility to~~  
17 ~~coordinate the payment of bills with health insurers and to generate or~~  
18 ~~bill and collect payment from enrollees on the health care provider's or~~  
19 ~~health care facility's behalf.~~

20 ~~4. "Contracted provider" means a health care provider that has~~  
21 ~~entered into a contract with a health insurer to provide health care~~  
22 ~~services to the health insurer's enrollees at agreed on rates.~~

23 ~~5.~~ 1. "Cost sharing ~~requirements~~ REQUIREMENT" means an enrollee's  
24 applicable out-of-network coinsurance, copayment and deductible  
25 requirements under a health plan based on the adjudicated claim.

26 ~~6.~~ 2. "Emergency services" has the same meaning prescribed in  
27 section 20-2801.

28 ~~7.~~ 3. "Enrollee" means an individual who is eligible to receive  
29 benefits through a health plan.

30 ~~8.~~ 4. "Health care facility" has the same meaning prescribed in  
31 section 36-437.

32 ~~9.~~ 5. "Health care provider" means a person who is licensed,  
33 registered or certified as a health care professional under title 32 or a  
34 laboratory or durable medical equipment provider that ~~furnishes~~ **RENDERS**  
35 services to a patient in a network facility and that separately bills the  
36 patient for the services.

37 ~~10.~~ 6. "Health care services" means treatment, services,  
38 medications, tests, equipment, devices, durable medical equipment,  
39 laboratory services or supplies rendered or provided to an enrollee for  
40 the purpose of diagnosing, preventing, alleviating, curing or healing  
41 human disease, illness or injury.

42 ~~11.~~ 7. "Health insurer" means a disability insurer, group  
43 disability insurer, blanket disability insurer, **HEALTH CARE SERVICES**  
44 **ORGANIZATION**, hospital service corporation or medical service corporation  
45 that provides health insurance in this state.

1 ~~12.~~ 8. "Health plan" means a group or individual health plan that  
2 finances or furnishes health care services and that is issued by a health  
3 insurer.

4 ~~13.~~ 9. "Network facility" means a health care facility that has  
5 entered into a contract with a health insurer to provide health care  
6 services to the health insurer's enrollees at agreed on rates.

7 ~~14.~~ 10. "Surprise out-of-network bill" means a bill for a health  
8 care service that was provided in a network facility by a health care  
9 provider that is not a contracted provider and that meets one of the  
10 requirements listed in section 20-3113.

11 11. "USUAL, CUSTOMARY AND REASONABLE RATE" MEANS THE EIGHTIETH  
12 PERCENTILE OF ALL CHARGES FOR A PARTICULAR HEALTH CARE SERVICE THAT IS  
13 PERFORMED BY A HEALTH CARE PROVIDER IN THE SAME OR SIMILAR SPECIALTY AND  
14 THAT IS PROVIDED IN THE SAME GEOGRAPHIC AREA AS REPORTED IN A BENCHMARKING  
15 DATABASE MAINTAINED BY A NONPROFIT ORGANIZATION THAT IS NOT AFFILIATED  
16 WITH ANY HEALTH CARE INSURER AND THAT IS DESIGNATED BY THE DIRECTOR OF THE  
17 DEPARTMENT.

18 Sec. 3. Section 20-3113, Arizona Revised Statutes, is amended to  
19 read:

20 20-3113. Surprise out-of-network bill; requirements; notice;  
21 cost sharing requirements; billing; unlawful  
22 practice

23 A. A bill for a health care service that was provided in a network  
24 facility by a health care provider that is not a contracted provider must  
25 meet one of the following requirements to qualify as a surprise  
26 out-of-network bill:

27 1. The bill was for emergency services, including under  
28 circumstances described by section 20-2803, subsection A and health care  
29 services directly related to the emergency services that are provided  
30 during an inpatient admission to any network facility.

31 2. The bill was for a health care service that was not provided in  
32 the case of an emergency and the health care provider or the provider's  
33 representative did not provide to the enrollee, or did not provide to the  
34 enrollee within a reasonable amount of time before the enrollee received  
35 the services, a written dated disclosure that contained the following  
36 information:

37 (a) Notice that contains the name of the billing health care  
38 provider and that states the health care provider is not a contracted  
39 provider.

40 (b) The estimated total cost to be billed by the health care  
41 provider or the provider's representative.

42 (c) Notice that the enrollee or the enrollee's authorized  
43 representative is not required to sign the disclosure to obtain medical  
44 care but if the enrollee or the enrollee's representative signs the

1 disclosure, the enrollee may have waived any rights to dispute resolution  
2 under this article.

3 3. The bill was for a health care service that was not provided in  
4 the case of an emergency and the enrollee received the disclosure  
5 prescribed in paragraph 2 of this subsection, but the enrollee or the  
6 enrollee's authorized representative chose not to sign the disclosure.

7 B. Notwithstanding any provision of this article, a health insurer  
8 and any health plan offered by a health insurer shall comply with chapter  
9 17, article 1 of this title.

10 C. OTHER THAN AN APPLICABLE COST SHARING REQUIREMENT PRESCRIBED IN  
11 THIS SECTION, AN ENROLLEE IS NOT RESPONSIBLE FOR PAYMENT OF A SURPRISE  
12 OUT-OF-NETWORK BILL.

13 D. A HEALTH INSURER OR ANY HEALTH PLAN OFFERED BY A HEALTH INSURER  
14 MAY NOT IMPOSE FOR EMERGENCY SERVICES THAT AN OUT-OF-NETWORK HEALTH CARE  
15 PROVIDER RENDERS TO AN ENROLLEE ANY COST SHARING REQUIREMENT THAT IS  
16 GREATER THAN THE COST SHARING REQUIREMENT THAT WOULD BE IMPOSED IF THE  
17 EMERGENCY SERVICES WERE RENDERED BY AN IN-NETWORK HEALTH CARE PROVIDER.  
18 THE ENROLLEE IS REQUIRED TO PAY ONLY THE APPLICABLE COST SHARING  
19 REQUIREMENT THAT WOULD BE IMPOSED FOR THE HEALTH CARE SERVICE IF THE  
20 SERVICE WERE RENDERED BY AN IN-NETWORK HEALTH CARE PROVIDER. THE HEALTH  
21 INSURER SHALL REIMBURSE THE OUT-OF-NETWORK HEALTH CARE PROVIDER OR  
22 ENROLLEE, AS APPLICABLE, FOR A HEALTH CARE SERVICE RENDERED AT THE  
23 IN-NETWORK RATE UNDER THE ENROLLEE'S HEALTH PLAN AS PAYMENT IN FULL,  
24 UNLESS THE HEALTH INSURER AND HEALTH CARE PROVIDER AGREE OTHERWISE.

25 E. IF AN OUT-OF-NETWORK HEALTH CARE PROVIDER RENDERS EMERGENCY  
26 SERVICES TO AN ENROLLEE, THE HEALTH CARE PROVIDER MAY BILL THE HEALTH  
27 INSURER DIRECTLY AND THE HEALTH INSURER SHALL REIMBURSE THE HEALTH CARE  
28 PROVIDER THE GREATEST OF THE FOLLOWING AMOUNTS:

29 1. THE AMOUNT THE ENROLLEE'S HEALTH PLAN WOULD PAY FOR THE SERVICES  
30 IF THE SERVICES WERE RENDERED BY AN IN-NETWORK HEALTH CARE PROVIDER.

31 2. THE USUAL, CUSTOMARY AND REASONABLE RATE FOR THE SERVICES.

32 3. THE AMOUNT MEDICARE WOULD REIMBURSE FOR THE SERVICES.

33 4. AN AMOUNT THAT THE HEALTH CARE INSURER AGREES TO PAY THAT IS  
34 GREATER THAN AMOUNTS DESCRIBED IN PARAGRAPHS 1, 2 AND 3 OF THIS  
35 SUBSECTION.

36 F. IF AN OUT-OF-NETWORK HEALTH CARE PROVIDER RENDERS A HEALTH CARE  
37 SERVICE TO AN ENROLLEE AND THE HEALTH INSURER FAILS TO INFORM THE ENROLLEE  
38 THAT THE HEALTH CARE SERVICE WAS RENDERED BY AN OUT-OF-NETWORK HEALTH CARE  
39 PROVIDER, THE HEALTH INSURER MAY NOT IMPOSE ANY COST SHARING REQUIREMENT  
40 THAT IS GREATER THAN THE COST SHARING REQUIREMENT THAT WOULD BE IMPOSED IF  
41 THE SERVICE WERE RENDERED BY AN IN-NETWORK HEALTH CARE PROVIDER.

42 G. AN ACT OR PRACTICE IN VIOLATION OF THIS SECTION CONSTITUTES AN  
43 UNLAWFUL PRACTICE UNDER SECTION 44-1522. THE ATTORNEY GENERAL MAY  
44 INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10,  
45 ARTICLE 7.

1           Sec. 4. Repeal

2           Sections 20-3114, 20-3115, 20-3116, 20-3117 and 20-3118, Arizona  
3 Revised Statutes, are repealed.

4           Sec. 5. Section 20-3119, Arizona Revised Statutes, is amended to  
5 read:

6           20-3119. Right of civil action

7           An enrollee who is aggrieved by ~~an arbitration~~ A decision regarding  
8 a disputed surprise out-of-network bill may file a civil action in  
9 superior court not later than one year after the date of the disputed  
10 decision to obtain appropriate relief with respect to the same surprise  
11 out-of-network bill.

12          Sec. 6. Department of insurance and financial institutions; report;  
13 definitions

14          A. On or before November 1, 2022, the department of insurance and  
15 financial institutions shall review the efficacy of dispute resolution  
16 practices relating to surprise out-of-network bills between health care  
17 providers and health insurers and issue a report that includes any  
18 recommended legislative changes based on best practices from surprise  
19 billing laws in other states. The department shall submit the report to  
20 the governor, president of the senate and speaker of the house of  
21 representatives, provide a copy of the report to the secretary of state  
22 and post the report on the department's website.

23          B. For the purposes of this section, "health care provider",  
24 "health insurer" and "surprise out-of-network bill" have the same meanings  
25 prescribed in section 20-3111, Arizona Revised Statutes, as amended by  
26 this act.

27          Sec. 7. Short title

28          This act may be cited as the "Stop Surprise Bills Act".