# Surprise Medical Billing
# Information for Nonparticipating Michigan Providers

Effective October 22, 2020, Michigan state law prohibits surprise billing by nonparticipating professional providers in Michigan for emergency services and some non-emergency services provided on and after this date.

"Surprise billing" is where a member unknowingly receives care from a nonparticipating provider and later receives an unexpected or "surprise" bill for the difference between the insurer's payment and what the provider charges. The law requires nonparticipating providers to provide disclosures to members and limits the reimbursement amount in certain circumstances. Nonparticipating provider may face penalties for violating the law effective January 1, 2021.

The information below is taken from House Bill 4459.

## Circumstances for reimbursement

Reimbursement applies to a nonparticipating provider who is providing a health care service if any of the following apply:

a) The health care service is provided to an **emergency** patient, is covered by the emergency patient's health benefit plan, and is provided to the emergency patient by the nonparticipating provider at a participating health facility or nonparticipating health facility.
b) All of the following apply:
    1) The health care service is provided to a nonemergency patient
    2) The health care service is covered by the nonemergency patient's health benefit plan
    3) The health care service is provided to the nonemergency patient by the nonparticipating provider at a participating health facility
    4) Either of the following apply:
        - The nonemergency patient does not have the ability or opportunity to choose a participating provider
        - The patient has not been provided the disclosure under House Bill 4460
c) The health care service is provided by a nonparticipating provider at a hospital that is a participating health facility to an emergency patient who was admitted to the hospital within 72 hours after receiving a health care service in the hospital's emergency room.

## Reimbursement

The nonparticipating provider must accept as payment in full the greater of the following:

1) The median amount negotiated by the patient's health plan for the region and provider specialty, excluding any in-network cost-sharing.
2) 150% of the Medicare fee for service schedule for the health care service provided, excluding any in-network cost-sharing.

Note: The patient's health plan must pay the amount described above to the nonparticipating provider within 60 days after receiving the clean claim.

The nonparticipating provider is prohibited from collecting or attempting to collect from the patient any amount other than the applicable in-network cost-sharing.

## Incorrect calculation

Beginning July 1, 2021, if a nonparticipating provider believes that the amount described above in the reimbursement section was incorrectly calculated, the nonparticipating provider may make a request to the Michigan Department of Insurance and Financial Services (DIFS) for a review of the calculation.

## Services involving a complicating factor

A complicating factor is a factor that is not normally incident to a health care service, including but not limited to the following:

- Increased intensity, time, or technical difficulty of the the health care service.
- The severity of the patient's condition.
- The physical or mental effort required in providing the health care service.

A nonparticipating provider who provides a health care service involving a complicating factor to an emergency patient may file a claim with a health plan for a reimbursement amount that is greater than the amount described in the reimbursement section above. The claim must include all of the following:

- Clinical documentation demonstrating the complicating factor.
- The emergency patient's medical record for the health care service, with portions of the record supporting the complicating factor highlighted.

Within 30 days of receipt of "complicating factor" claim, we will follow the process below.

| If health plan determines | Then |
|---|---|
| Documentation submitted demonstrates complicating factor | Make one additional payment that is 25% of the amount provided in section 24507(2)(a). (See reimbursement section above). |
| Documentation does not warrant complicating factor | Issue a letter to the nonparticipating provider denying the claim.<br><br>If denied: Beginning July 1, 2021, the nonparticipating provider may file a written request for binding arbitration with DIFS. |

For more information, including details on DIFS processes, please refer to the appropriate bill:

- **House Bill 4459:** Nonparticipating provider must accept as payment in full the greater of median in-network negotiated by the health plan or 150% Medicare fee-for-service for health care service for specific circumstances.
- **House Bill 4460:** Requires a nonparticipating provider who is providing a health care service to a nonemergency patient to provide a disclosure to the patient.