



EVERY TEXAN

Formerly Center for Public Policy Priorities

To: House Committee on Insurance
From: Stacey Pogue, senior policy analyst with Every Texan (formerly CPPP)
Date: April 27, 2021
Re: Comments in support of HB 4115, protect consumers from ambulance surprise medical bills

Every Texan supports CSHB 4115 by Representative Oliverson, which extends Texas' surprise medical billing protections to ground ambulances.

Texans have benefited for more than a year from the landmark surprise billing protections passed last session (SB 1264). Initial reports on the rollout of the law shows that it has achieved its central aim of protecting consumers by stopping surprise medical bills from many out-of-network services. Unfortunately both SB 1264 and the No Surprises Act passed by Congress at the end of 2020 do not address surprise medical bills from ground ambulances.

In Texas, [85%](#) of ground ambulance services are billed out-of-network, leaving consumers at risk of sizeable surprise medical bills.

CSHB 4115 addresses this problem in a way that both protects consumers from surprise medical bills and doesn't inflate health care costs. It also implements one of TDI's recommendations from its [biennial report](#).

The committee substitute:

- Applies to just privately-operated ground ambulance services making non-emergency, facility-to-facility transfers. Patients get no choice in which private ambulance service is called to transport them between a hospital to a rehab facility, so they can't "shop" for an in-network provider.
- Excludes services from local/county EMS, including in emergencies or facility-to-facility transfers. The substitute recognizes that public EMS services are different from private ones, Public EMS services set their rates using a public and transparent process.
- Lets insurers and private ground ambulance firms resolve their billing conflicts using mediation. Mediation is used under SB 1264 by facilities, and for the ten years leading up to SB 1264, all Texas surprise billing disputes were settled in mediation. Mediation has worked to produce a very high rate of informal resolutions to billing disputes in Texas since 2009.

Under SB 1264, Texas has a parallel arbitration system for billing disputes involving physicians. While arbitration can be an equally appropriate route for solving billing disputes, Texas' *specific* arbitration system uses inappropriate data that has an inflationary effect on health care costs. Specifically, surprise billing arbitration in Texas considers both the 80th percentile of charges and the median in-network rate.

The median in-network rate is the market rate, where buyers and sellers in the market have agreed to a price. That data point makes sense. The 80th percentile of charges, on the other hand, is set unilaterally by the provider and is a charge so high, that 79% of all provider bill at a lower rate.

Since SB 1264 was passed, multiple [studies have shown](#) that considering billed-charge data in dispute resolution drives up health care costs, including consumers' premiums, and incentivizes providers to inflate their unilaterally set charges.

Congress weighed billed-charge data when debating the No Surprises Act and soundly rejected it. The new federal law uses arbitration to settle disputes, but expressly prohibits consideration of billed charges. Texas has been a leader on ending surprise medical bills and has the opportunity with CSHB 4115 to continue leading in this space. We encourage you to protect Texas consumers by passing CSHB 4115.