

# FACT SHEET

## AB 1611 (Chiu)

### PROTECT ALL CALIFORNIANS FROM SURPRISE EMERGENCY ROOM BILLS

#### Purpose

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To protect Californians from surprise bills when they go to an out-of-network Emergency Room and to control the rising prices charged by hospitals.

#### Background

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A Vox report about emergency room bills tells the story of Nina Dang, a 24-year old who went to the emergency room after a serious bike accident in San Francisco. Dang had coverage through her employer, yet she received a bill for over \$20,000 for her treatment at the ER—a price that is 1200% above what Medicare pays for an ER visit.

Ms. Dang, and many other Californians, are at risk of shocking ER bills from hospitals simply because of the type of coverage they have through their employer or union.

In 2009, the California Supreme Court ruled in the case *Prospect Medical Group Inc. vs. Northridge Emergency Medical Group* that surprise ER bills were illegal, but that decision only applies to health plans regulated by the state Department of Managed Health Care (DMHC) and not to plans regulated by the Department of Insurance or by federal regulators.

An estimated 7 million Californians are covered by federally regulated and self-insured plans — most often offered by large employers and union trust funds—or by plans regulated by the California Department of Insurance. These patients are not protected by the *Prospect* ruling and are exposed to ER bills that can run tens of hundreds of dollars.

Surprise ER bills are particularly problematic because patients rarely choose what hospital they go to in an emergency. State and federal law require that hospitals treat anyone who walks through their doors for emergency care. These laws are criti-

cally important to ensure patients aren't left to die on the street and ensures that everyone will get treated at the nearest ER. Health plans are required to cover the treatment, even if the hospital is out-of-network, though it does allow balance billing.

Hospitals, however, have used these important access laws to treat their emergency rooms as powerful leverage in negotiations with health plans over contracted prices. Since health plans must cover all ERs, hospitals in consolidated markets can charge exorbitant out-of-network prices to require their entire hospital be in-network, and that the plan agree to high contracted rates. This practice has been documented, most recently in a Health Affairs article that uses California hospital data to track the trend.<sup>1</sup>

Surprise medical bills add yet another burden to Californians who are already struggling to pay rising deductibles, premiums, and co-pays. As the cost of health care continues to rise, employers are passing on the cost to workers, while providers are shifting the cost through surprise medical bills. The result is the same—workers and consumers pay more out-of-pocket.

At the same time, if hospitals are prohibited from surprise billing, they will try to shift those costs onto health plans. That will drive up premiums which is money that once again comes out of workers' and employers' pockets. We cannot allow hospitals to charge sticker price—at times 1200% of Medicare— and force patients or plans to pay for it.

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1. Melnick, Glenn et al. "The California Competitive Model: How Has It Fared, And What's Next?" Health Affairs, September 2018.  
<https://doi.org/10.1377/hlthaff.2018.0418>

There is a way to stop surprise bills that also protects access. The *Prospect* case banned surprise ER bills for most Californians. We do have a model that can work for all patients.

Californians need protections from surprise ER bills and purchasers need protection from the exorbitant prices that hospitals charge. AB 1611 closes a loophole in existing law to do both.

### **What This Bill Will Do**

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AB 1611 (Chiu) bans hospitals from sending surprise bills to patients for Emergency Room care beyond their regular co-payment or deductible. The ban will apply even if a hospital was out-of-network with a patient's health insurance. The consumer will only pay in-network cost-sharing and will not receive an exorbitant bill. It also closes the loophole that left workers with self-insured or federally-regulated coverage through their job exposed to surprise bills.

The bill ensures fair payment for hospitals of 150% of Medicare or the average contracted rate, whichever is greater.

AB 1611 protects Californians, regardless of the type of insurance they have, from surprise ER bills while at the same time establishing a system for fair payment that also prevents increased costs for health care purchasers.

### **Support**

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- California Labor Federation (Co-Sponsor)
- Health Access (Co-Sponsor)
- UNITE HERE
- IATSE Local 80

### **Key Contacts**

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