

I would expand the prohibition against balance billing in at least the following two situations.

First: Pennsylvania already has a prohibition against balance billing in emergency situations. (section 152.15) I would expand that prohibition to include any set of circumstances in which the patient does not have a reasonable opportunity to determine if the physician is in network. For example, in a hospital setting, a patient may not learn of a physician called in to consult until that physician shows up at their bedside. If the patient has not had a reasonable opportunity to determine if a physician is in network, the patient should not be subjected to balance billing.

Second: The second situation involves a classic estoppel situation. In this scenario, a doctor bills the patient's insurance company. The patient's insurance company pays something less than the amount of the bill. The patient receives an explanation of benefits indicating that the doctor has been paid something less than the amount of the bill. The patient has some period of time, for example 90 days, to appeal the insurance company's decision. The doctor's office does not send a bill to the patient during the appeal period. This presents a classic estoppel situation. Specifically:

The doctor takes, or in this case fails to take, an action that one would expect a prudent person to take. i.e. a reasonable person would expect that if the doctor is not satisfied with the insurance company's payment, that the doctor would timely notify the patient of the insufficient payment.

The patient relies on the doctor's failure to act to the patient's detriment. i.e. the patient does not file an appeal with the insurance company because the patient believes that the doctor is satisfied with the payment from the insurance company.

The doctor should be estopped from collecting. In what other business can a person send out a bill one or two years after the date of service and expect to be paid?

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