



Texas Association of Health Plans
1001 Congress Ave., Suite 300
Austin, Texas 78701
P: 512.476.2091
www.tahp.org

September 5, 2024

Re: Hospital Facility Fees

Dear Chairman Oliverson and Members of the House Insurance Committee,

I am writing on behalf of the Texas Association of Health Plans (TAHP), representing the state's health insurers committed to providing affordable, high-quality health care coverage to millions of Texans. Facility fees have become a significant and growing concern in Texas, as they are increasingly imposed on patients without their knowledge or consent.

These fees, often charged by hospitals and health systems for services that do not require the use of hospital facilities, are driving up health care costs for patients and creating a new type of surprise medical bill. We appreciate the opportunity to discuss the steps Texas can take to address the issue of facility fees and protect consumers from unnecessary and unexpected charges.

Background on Facility Fees:

Facility fees were originally intended to help cover the overhead cost of hospitals and their emergency departments that must stay open at all hours to meet patient needs. However, hospital systems are rapidly buying up doctor's clinics and imposing hospital-level billing by turning these clinics into hospital outpatient departments (HOPDs). Hospitals in Texas are now applying these fees for a wide array of outpatient services, preventive care visits, and even telehealth—all of which were never meant to include a facility fee or even be performed at a hospital.

Why It Matters:

Patients in Texas and around the country have been caught off guard and left on the hook for hundreds, or even thousands, of dollars in unexpected facility fee charges. Surprise facility fees are the latest addition to out-of-control health care costs that result in higher out-of-pocket spending for patients and increased premiums for employers and families. States are increasingly becoming aware of the need to step in to set limits on these abusive provider pricing schemes.

Inappropriate hospital facility fee bills are one of the biggest opportunities to address runaway health care spending and improve affordability for Texans. By prohibiting or limiting facility fees in specific contexts—such as telehealth, preventive services, and clinician-administered



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drugs—Texas can protect patients from unnecessary costs and promote a more transparent and equitable health care system.

Growing Bipartisan Interest:

U.S. House and Senate proposals focused on broad health reforms include provisions to address surprise facility fees. Legislation moving in both chambers includes site of service billing transparency to ensure medical bills match the true location of where health care services are performed. The U.S. House passed the Lower Costs More Transparency Act of 2023, which would address facility fees added for clinician-administered drugs, such as chemotherapy treatments, saving Medicare roughly \$3.7 billion over 10 years and cutting copays by about \$40 per patient.

Several states have also taken action in recent years to address these surprise fees. An Indiana law aimed at addressing surprise facility fees and other dishonest billing tactics limits the use of hospital billing for services provided off of a hospital's campus. Ohio and several other states ban facility fees for telehealth visits, and both New York and Colorado limit facility fees for preventive services.

Connecticut extended its COVID-era ban on facility fees for telehealth while also banning facilities for simple, non-emergency physician visits. Maine lawmakers now require health care claims to identify the physical location where a service was provided—including hospital off-campus locations—a move aimed at getting a handle on when facility fees are applied outside of a hospital.

Our Recommendations:

- **Establish facility fee billing transparency** by requiring hospital-affiliated facilities to use a unique National Provider Identifier (NPI). This honest billing requirement will ensure patients and payers know whether a facility fee was inappropriately applied.
- **Protect patients from inappropriate and excessive surprise facility fees** for services that should have been provided outside of a hospital, such as telehealth and preventive care.
- **Prohibit facility fees for clinician-administered drugs, such as chemotherapy.** Patients should not have to pay more for these life-saving drugs just because of where they received them.



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Texas was a leader among states in protecting patients from surprise medical bills. The growing issue of added facility fees presents a new front in unfair patient billing. We urge you to consider these recommendations to protect Texas patients from this growing issue.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The signature is written in a cursive, flowing style.

Jamie Dudensing, RN
CEO
Texas Association of Health Plans