



NO SURPRISES:

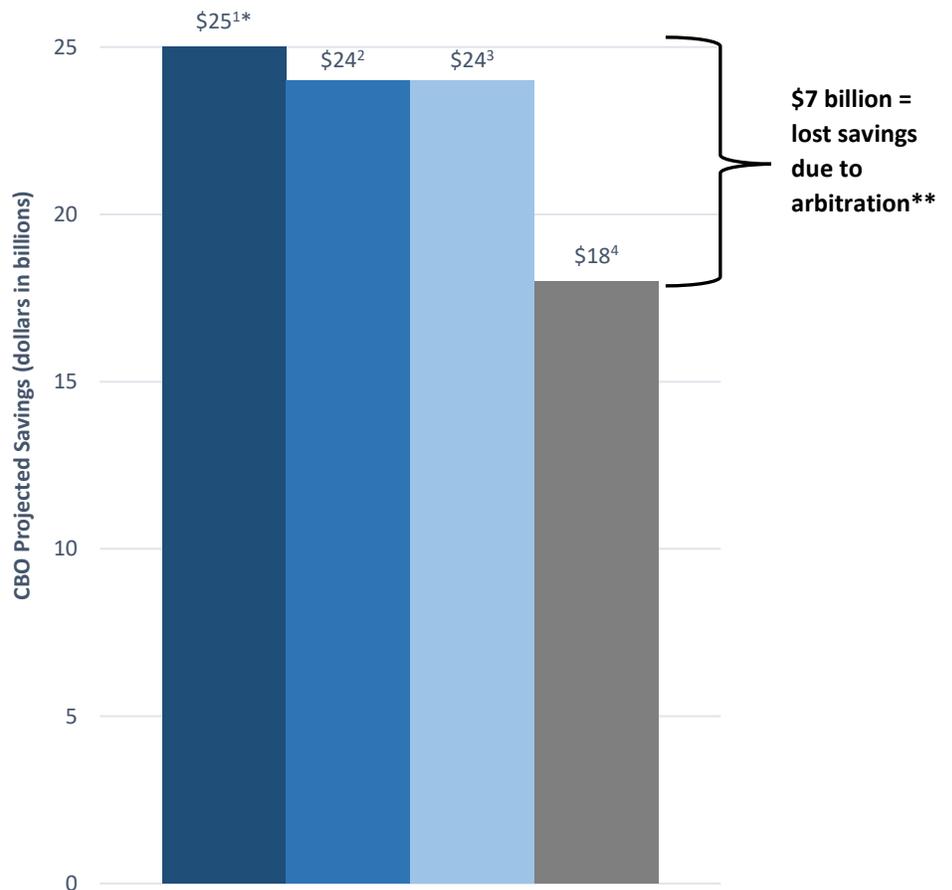
PEOPLE AGAINST UNFAIR MEDICAL BILLS

February 2020

Comparison of CBO-Scored Surprise Billing Legislation

The Congressional Budget Office has completed analysis on several of the policy proposals related to surprise billing. This chart does not include the December compromise drafted by Energy and Commerce and HELP Committees because a score was not released.

- HELP Committee Benchmark
- Energy and Commerce Benchmark/IDR
- Education and Labor Benchmark/IDR
- Ways and Means IDR



*Measured using 2019 base year. Likely would see additional savings under 2020 base year

** CBO and JCT expect that use of arbitration reduces savings due to the effect of higher premiums, reduced wages, and administrative costs.⁵

¹ <https://www.cbo.gov/publication/55457>

² <https://insidehealthpolicy.com/daily-news/cbo-education-labor-energy-commerce-surprise-billing-plans-both-save-24b>

³ <https://www.cbo.gov/publication/56134>

⁴ <https://www.cbo.gov/publication/56122>

⁵ <https://www.cbo.gov/system/files/2019-09/hr2328.pdf>

CBO Scored Legislation

- **HELP Committee:** Senate HELP advanced the bill in an overwhelmingly bipartisan vote. In addition to banning surprise billing for consumers, the committee used a benchmark payment rate in its mark. Insurance plans automatically pay providers the median in-network payment rate for the service in the geographic area and there is no dispute resolution process. Includes ending surprise bills for air ambulance.
- **Energy and Commerce:** The Committee advanced the bill by voice vote in 2019. It institutes a median-in network payment rate for all bills. For services in excess of \$1,250, either the plan or the provider may request that the bill go to independent dispute resolution (IDR) with “baseball style” arbitration. Bans the arbitrator from even considering billed charges in making a determination.
- **Education and Labor:** The Committee advanced the bill in February 2020 on a bipartisan vote. Similar to the Energy and Commerce bill, it institutes a median-in network payment rate for all bills. For services in excess of \$750, either the plan or the provider may request that the bill go to IDR with “baseball style” arbitration, and bans the arbitrator from even considering billed charges in making a determination. Includes ending surprise bills for air ambulance.
- **Ways and Means:** The Committee advanced the bill on a voice vote in February 2020. The bill does not set an interim payment rate and requires the insurer to provider to enter a 30-day negotiation period if they cannot agree on a payment for balance bills. After the 30-day period, the bill relies on “baseball style” IDR to settle claims. The IDR process includes robust guardrails; including a ban on consideration of billed charges, a ban on consideration of usual and customary rates, and required consideration of the median in-network rate.

Other Legislation

- **Energy and Commerce and HELP Committee Compromise:** The bicameral, bipartisan proposal was released in December 2019, and does not have a public CBO score. Similar to the Energy and Commerce and Education and Labor committee marks, it institutes a median-in network payment rate for all bills. For services in excess of \$750, either the plan or the provider may request that the bill go to IDR with “baseball style” arbitration. Bans the arbitrator from even considering billed charges in making a determination. Includes ending surprise bills for air ambulance.
- **Ruiz / Roe Bill:** This proposal requires the plan to pay a “commercially reasonable rate.” For any bill in excess of \$500, either party may request an IDR process. The arbitrator may choose between two prices: The original price paid by the plan or the provider’s billed charges. No official CBO score was released, however leaked versions showed that **the bill would cost \$15 billion.**⁶

⁶ <https://thehill.com/policy/healthcare/462833-cbo-rival-fix-for-surprise-medical-bills-costs-double-digit-billions>