

**From:** DMHC Licensing eFiling

**Subject:** APL 22-022 – AB 72 (2016) Prohibition Against Surprise Balance Billing for Non-contracted Ambulance/Medical Transportation Services

**Date:** Wednesday, October 26, 2022 3:46PM

**Attachments:** APL 22-022 – AB 72 (2016) Prohibition Against Surprise Balance Billing for Non-contracted Ambulance-Medical Transportation Services (10.26.22).pdf

Dear Health Plan Representative,

The Department of Managed Health Care (Department) issues this All Plan Letter (APL) 22-022 to provide additional guidance regarding the applicability of AB 72 for certain health care services.

Thank you.



Gavin Newsom, Governor  
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Health and Human Services Agency  
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## ALL PLAN LETTER

**DATE:** October 26, 2022

**TO:** All Commercial Full-Service Health Care Service Plans

**FROM:** Sarah Ream  
Chief Counsel

**SUBJECT:** APL 22-022 - AB 72 (2016) Prohibition Against Surprise Balance Billing for Non-contracted Ambulance/Medical Transportation Services

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In July 2017, the Department of Managed Health Care (DMHC) issued guidance on the implementation of Assembly Bill (AB) 72 (Stats. 2016, Ch. 492),<sup>1</sup> codified at Health and Safety Code Section 1371.9. AB 72 prohibits a noncontracting individual health care professional from “surprise balance billing” an enrollee when the enrollee received covered services from a contracting health facility at which, or as a result of which, the enrollee received services from a noncontracted individual health care professional.<sup>2</sup> In such instances the enrollee shall pay no more than the same cost sharing the enrollee would pay for the same covered services received from a contracting individual health care professional. Due to recent enrollee and provider complaints received by the DMHC, the DMHC determined additional guidance regarding the applicability of AB 72 for certain health care services is necessary.

The Legislature enacted AB 72 to protect patients from surprise medical bills when they go to a contracted health facility. These protections arise in situations where the contracted health facility or provider arranges for a noncontracting health care provider to provide covered non-emergency services to the enrollee. Such services include but are not limited to: anesthesia; laboratory or imaging services (e.g., blood work tests, specimen testing, CT and MRI scans); and other covered medically necessary, non-emergency services. Additionally, such services can include non-emergency ground ambulance/medical transportation arranged by the contracted health facility or provider.

Recent complaints to the DMHC reveal the precise situation AB 72 was enacted to address. For example, an enrollee is an inpatient at a contracting hospital or rehabilitation facility. Medical personnel at the contracted health facility determine the

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<sup>1</sup> The DMHC’s prior APLs regarding AB 72 are located on the DMHC’s website at the following links: [APL 17-009](#) and [17-011](#).

<sup>2</sup> Health and Safety Code section 1371.9, subdivision (a). All statutory citations in this APL refer to the California Health and Safety Code unless otherwise noted.

enrollee needs medically necessary services that the contracted health facility is either unable or unwilling to perform to treat the enrollee's medical condition (e.g., The contracted health facility may lack the appropriate medical equipment, an appropriately qualified specialist, medically necessary resources, or the medically necessary level of care).

Oftentimes, personnel at the contracted health facility determine the level of medical transportation needed to transport the enrollee to another facility, identify a transportation provider, and arrange for the transportation. After the care is rendered, the enrollee discovers a non-contracted medical transportation provider rendered the transportation services.

In the above cases, the enrollee received covered services from a contracting health facility. As a result of receiving the covered services, a noncontracting individual health professional provided ground ambulance/medical transportation services to the enrollee. Thus, AB 72 applies to limit the enrollee's responsibility to in-network cost sharing for the ground ambulance/medical transportation services. This remains true regardless of whether the contracted health facility technically discharges the enrollee for the period required to obtain the covered services at a different facility or to transport the enrollee to a facility with a different medically necessary level of care.

The DMHC reminds plans that they must maintain an adequate network of providers to perform covered services, including ground ambulance/medical transportation (see Rule 1300.51, Exhibit I-3). In the case of non-emergency ground ambulance/medical transportation, the pattern of complaints filed with the DMHC indicates contracted health facilities routinely arrange for services from non-contracted ground ambulance/medical transportation providers. Health plans should take steps to ensure contracted health facilities are making in-network referrals and enrollees are protected from balance billing when an enrollee receives non-contracted services and when AB 72 is applicable.

If you have questions regarding this APL, please contact your health plan's assigned reviewer in the DMHC's Office of Plan Licensing.