

https://www.statehousenews.com/news/healthcare/state-moves-to-cap-out-of-network-costs-as-industry-urges-caution/article_fa55abb7-658a-48e1-a2b8-f07993877732.html

State moves to cap out-of-network costs as industry urges caution

Insurers warn a rate set too high could push providers out of networks and raise spending

Alison Kuznitz

Sep 9, 2026



Division of Insurance Commissioner Michael Caljouw at a press conference about insurance reform at the State House on Wednesday, Jan. 14, 2025.

STATE HOUSE, BOSTON, Sept. 9, 2026.....Healthcare industry insiders voiced support Wednesday for a state effort to alleviate steep out-of-network costs that saddle patients with surprise medical bills, while warning against approaches that could backfire and end up raising total spending.

Based on an initial recommendation from her Health Care Affordability Work Group, Gov. Maura Healey has tasked the Division of Insurance with establishing default out-of-network payment rates. The aim is to shield patients who unknowingly receive care from providers who are not covered under their insurance plans, which can lead to hefty bills that also "inflate insurance costs across the entire market," Healey's office said last month.

The governor's directive did not come with an explicit deadline. A DOI spokesperson said the goal is to have regulations take effect during the winter or early spring of 2027.

"We hope the DOI, through these discussions, is willing to think big when it comes to establishing default out-of-network rates that would apply to a wide range of non-scheduled and non-emergency care," Alex Sheff, senior director of policy and government affairs at Health Care For All, said Wednesday during the division's first listening session on the topic.

"We hope that, as a state, we don't squander this opportunity to make meaningful progress on healthcare costs that weigh more heavily every year on consumers," Sheff continued.

The federal No Surprises Act, which took effect in 2022, looks to accomplish a similar goal of protecting people who end up receiving care from out-of-network providers at in-network facilities. The law also outlines an independent dispute resolution process between insurers and providers hashing out payments.

Healey's office said the federal law "has not fully contained costs." Yale University health economist Zack Cooper said Wednesday the law has been mired in litigation, and that the volume of cases going through arbitration has far exceeded projections. Providers have won the vast majority of cases, and the money awarded through arbitration is "enormous," Cooper said.

Medical providers and insurers framed the Healey administration's pursuit to reduce out-of-network costs as a way to remedy gaps from that federal law, while acknowledging the solution will only resolve part of an affordability crisis that's straining Bay Staters' wallets and forcing them to forgo care.

The Executive Office of Health and Human Services, alongside other healthcare agencies, in 2021 had similarly called for setting an out-of-network default rate that aligns with the in-network median contracted rate. Liz Leahy, senior vice president of advocacy and engagement at the Massachusetts Association of Health Plans, said the organization has supported that policy shift for "many years."

"I think first, a median contracted rate is reflective of the Massachusetts healthcare market. We're looking at the rates that are actually negotiated between health plans and providers, and reflect the relative cost of delivering services, provider specialty, geography, local market conditions," Leahy said. "I think second, getting the level and the structure of that default rate right is critical to affordability and to market stability. So, if the default rate is set substantially above negotiated rates that could have a perverse incentive."

Leahy, citing the EOHHS report, said that an "excessively high benchmark" could trigger "upward pressure" on negotiated prices, as well as increased healthcare spending and premiums. That dynamic has played out with the majority of municipal ambulance providers, which have stayed out of network to maximize their reimbursements, she said.

Erika Wilkinson, senior director of government and regulatory affairs at Blue Cross Blue Shield of Massachusetts, echoed those concerns.

"What the rate is is going to really matter," Wilkinson said. "We don't want to incent providers to be leaving networks."

Ahead of setting the default rate, insurance regulators should quantify the current scope of out-of-network spending, explain how a benchmark would be calculated and updated, identify the potential impact on premiums and provider revenues, and create a mechanism to monitor "unintended consequences," said Karen Granoff, the Massachusetts Health and Hospital Association's senior director of payer relations and managed care policy. The MHA has routinely criticized the failure of the state's cost growth benchmark in reining in overall healthcare spending.

"Before moving forward with specific solutions, we encourage the division to clearly identify the problem, the services and the providers affected, as well as the intended outcome," Granoff said. "And we also urge the division and other stakeholders to consider the principles that

MHA would want to use in evaluating each proposal, and these include preserving meaningful payer-provider negotiations and the ability of contracts to reflect unique patient complexity, community needs, quality and provider capabilities."

Insurance Commissioner Michael Caljouw agreed the state needs to use a "data-driven" strategy.

"I think it has to be rooted in a Massachusetts-specific experience, noting the need to have an approach that's reasonable and balanced, and seeks to reduce costs, and not somehow inadvertently increase costs or create barriers to care for patients," Caljouw said.

Leahy urged regulators to develop a "predictable" default rate that could avoid the costly dispute process and administrative complexities stemming from the No Surprises Act. Cooper said regulatory actions would translate into lower administrative costs, with both insurers and providers scaling back their investments on rate negotiations and arbitration.

"In a competitive market, those savings from lowering the administrative burden get passed onto the patients and the public," Cooper said.

Insurance regulators have scheduled two additional listening sessions in October focused on out-of-network costs, as they seek input from patients, consumer advocates, providers, insurers, employers and other stakeholders.

Alison Kuznitz is a reporter for State House News Service and State Affairs Pro Massachusetts. Reach her at akuznitz@stateaffairs.com.

Alison Kuznitz