

# TAHP Out-of-Network Claims Survey

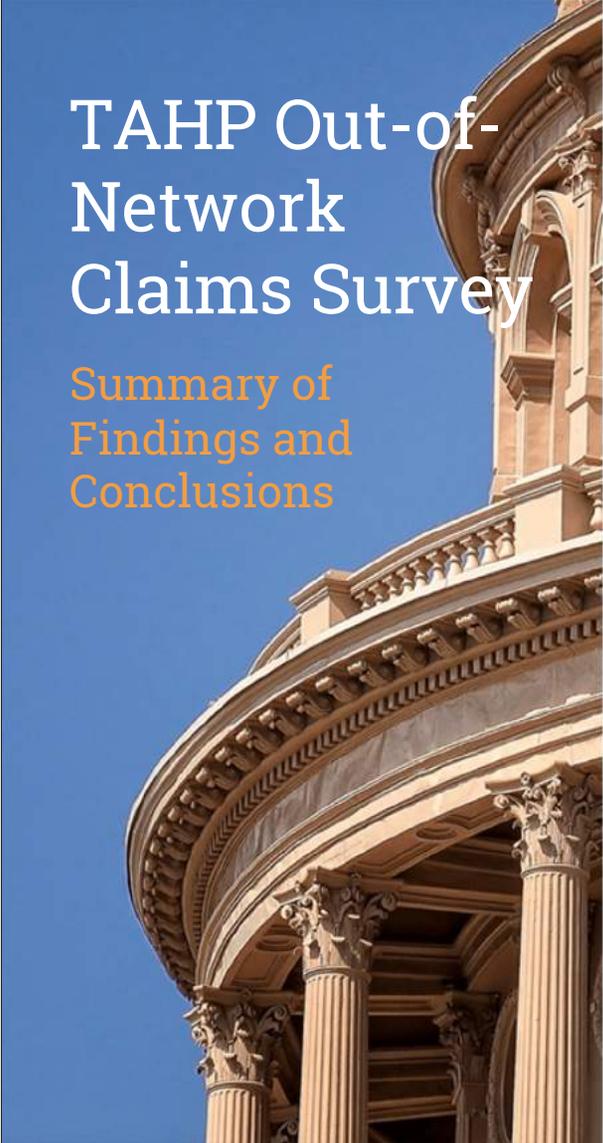
Summary of Findings and  
Conclusions

February 2019

**TAHP**

The Texas Association of Health Plans

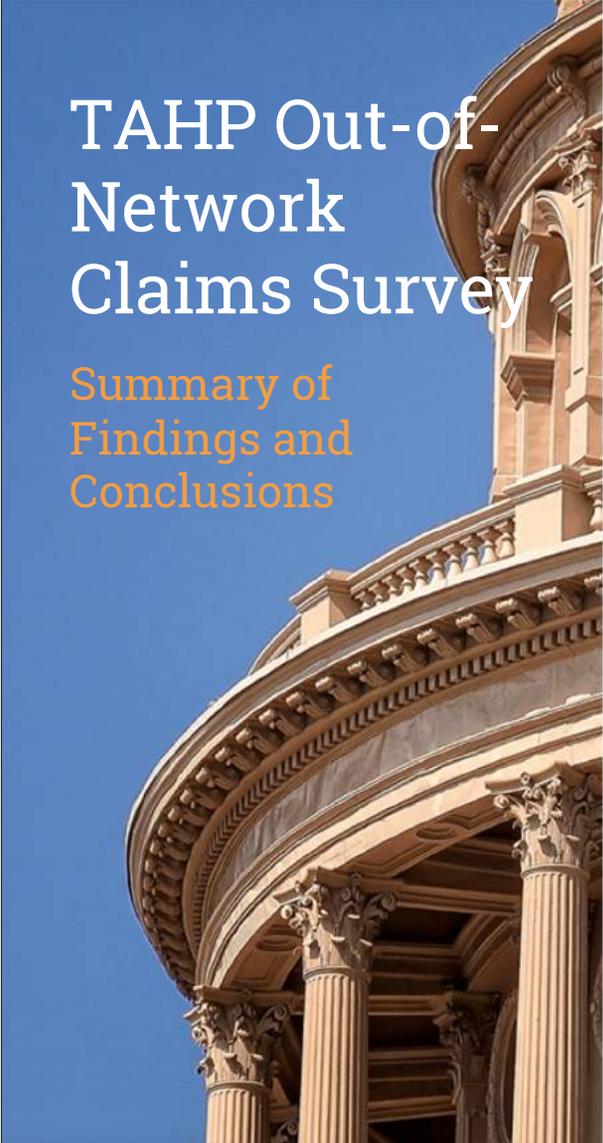




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## Summary of Findings and Conclusions

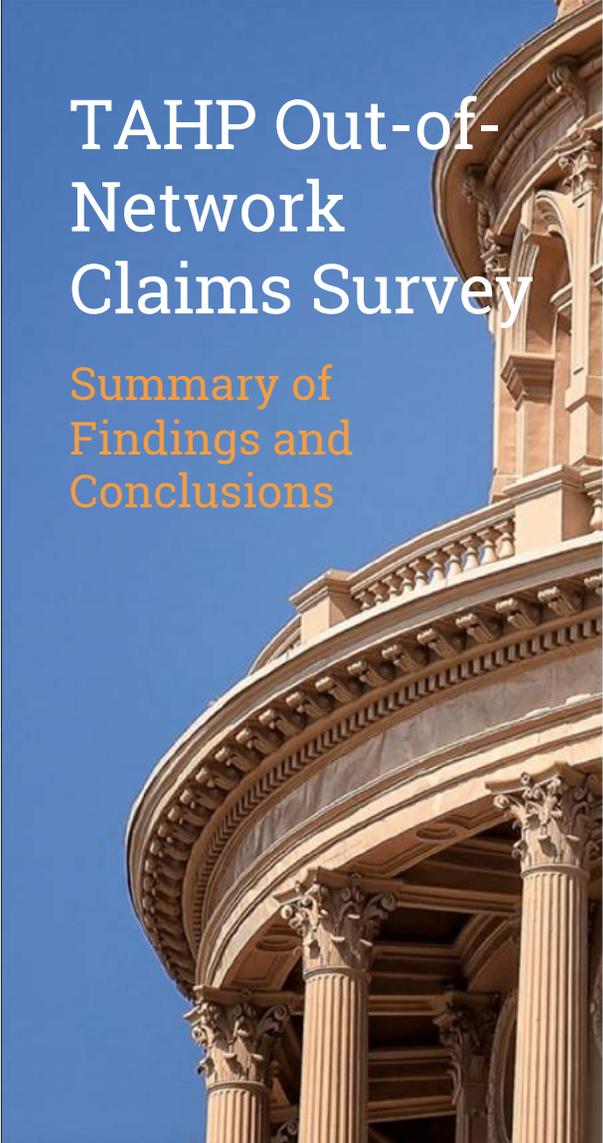
- Patients treated by out-of-network providers are at risk of getting billed for amounts not covered by their insurance. Network providers agree to accept the amount they negotiated and accepted in contract with the patient's insurer as full payment, and to not bill patients more than applicable deductions or copayments.
- Out-of-network providers often bill the patient for additional amounts. When these bills are unexpected, they are referred to as "surprise" medical bills.
- Surprise bills often happen when patients do not pick their providers or when patients are misled or confused about a provider's network status.
- This survey of 2017 network and out-of-network PPO claims from three large Texas health plans (BCBSTX, United and Aetna) was collected to determine when patients are most at risk for surprise and balance medical billing in Texas.
- Overall, this survey indicates Texas consumers are still at high risk of surprise billing when they receive emergency services, especially by out-of-network physicians for emergency services at network hospitals and at out-of-network FSERs.
- Texas leaders have taken steps over the past decade to create protections from surprise medical bills, but it is clear that problems remain in Texas—particularly in the ER. Patients should never be financially penalized when they receive care from an out-of-network provider they did not choose.



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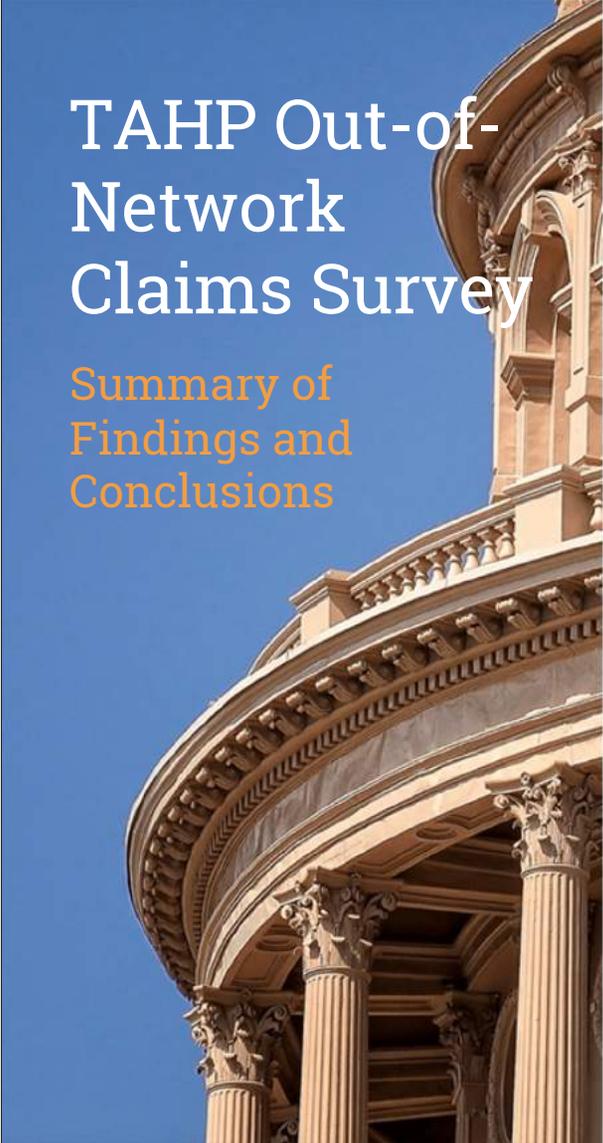
- In Texas, the highest rates of out-of-network physician services and claims happen in emergency care settings.
- Emergency services in Texas are most often out-of-network (95%) when provided at out-of-network freestanding emergency rooms (FSERs) or by out-of-network physicians practicing at network hospital ERs.
- In an emergency, patients often must rush to the nearest ER. In Texas, most hospitals are in network, and more than 80% of ER facility claims are from network facility ERs.
- However, patients usually cannot choose the ER doctors who treat them and do not know if those doctors are in their health plan network. In an emergency, Texas patients are at risk of receiving out-of-network services, even when they make sure they go to a network hospital.
- **In fact, more than 30% of all ER physician services are out of network and 65% of these happen at network hospitals.**
- **When FSERs are excluded from the analysis, 94% of Texas out-of-network physician claims for emergency services at hospital-based ERs occur at network hospitals.**



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- Additional findings specific to out-of-network physician services include:
  - Almost 50% of ER physician claims are out of network—substantially higher than all other physician specialties.
  - More than 30% of claims from all facility MDs performing ER services are out-of-network, a rate more than 5 times higher than all facility MDs for all services—this further illustrates that out-of-network rates are higher for services where patients are unable to choose their provider.
  - 66% of out-of-network physician emergency claims are at network facilities (Hospital ER and FSER).
  - 95% of all out-of-network physician claims for emergency services occur in either network hospital ERs or out-of-network FSERs.
  - 94% of Texas out-of-network physician claims for emergency services at hospital-based ERs occur at network hospitals (Hospital-Based ERs Only).
  - 10% of anesthesiologist services are out of network.
  - Only 6% of all facility-based physician services and 5% of all non-facility-based physician services are out of network.

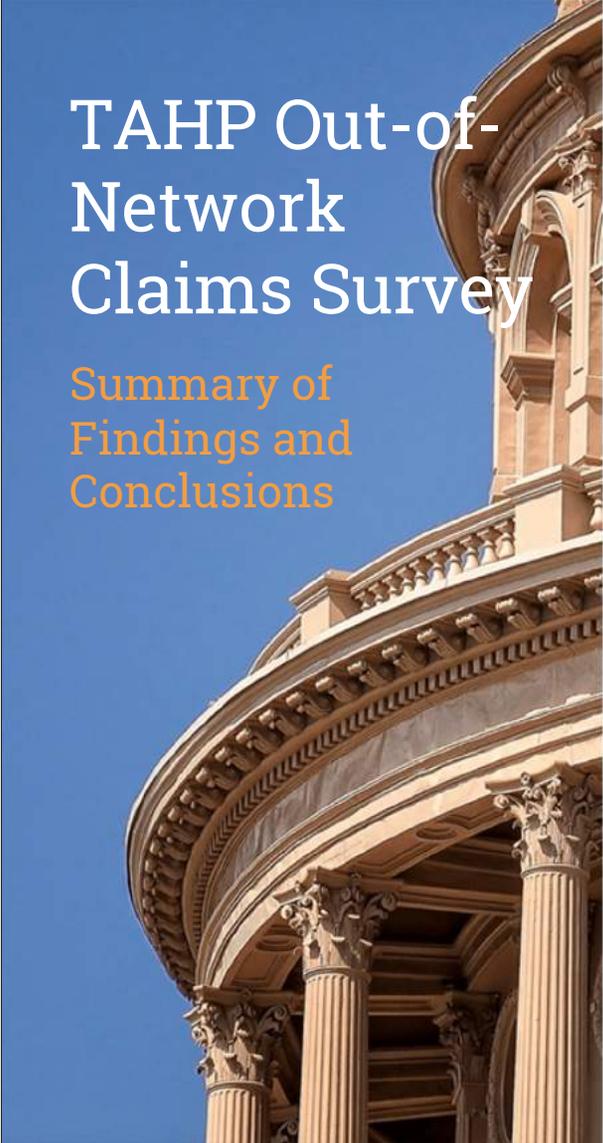


# TAHP Out-of-Network Claims Survey

## Summary of Findings and Conclusions

- Most out-of-network ER facility claims and a large number of out-of-network ER physician services occur at FSERs. Specifically:
  - While only 19% of ER facility claims are out of network, 83% of those are from FSERs
  - 28% of all out-of-network ER physician services occur at out-of-network FSERs
- Some patients that choose to go to an FSER may not know it is out of network. A recent investigation<sup>1</sup> found many FSERs in Texas use misleading language about their network status, which may explain why some patients choose to go to an out-of-network FSER, risking surprise medical bills. The AARP investigation found that:
  - 30% of Texas FSER websites do not comply with Texas' FSER network disclosure laws
  - 77% of FSERs use confusing language on their websites and advertising like they “take” or “accept” insurance when they are out of network for any major health plan
  - 43% of FSER facilities were unable to answer a simple ‘yes’ or ‘no’ question about network status when called
  - 28% of out-of-network FSERs used confusing language on phone calls indicating they “take,” “accept” or “honor” insurance even when they are not in network
  - 62 facilities incorrectly stated they were in network with BCBTX

<sup>1</sup> *Investigating Freestanding ER Disclosures, AARP, Texas, January 2019*

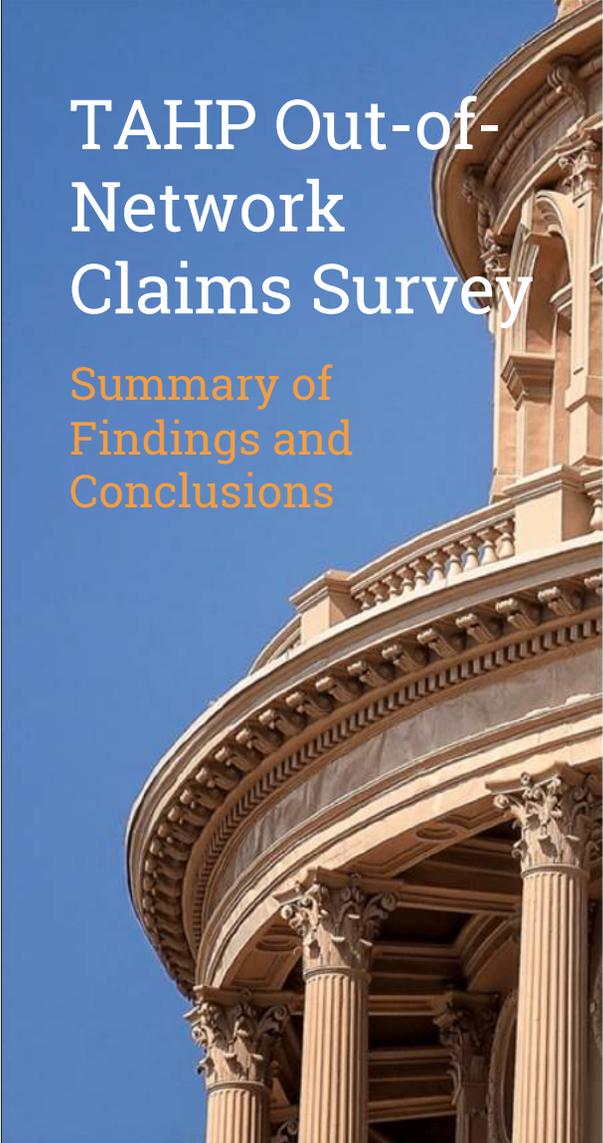


# TAHP Out-of-Network Claims Survey

## Summary of Findings and Conclusions

- As with previous research, the TAHP claims survey shows that physician specialties for which patients have little or no choice of their doctor tend to have the highest rates of out-of-network claims and services. This means patients are more at risk for surprise billing when they are unable to choose their physician.
- Data also shows that these same physician specialties tend to have much higher billed charge amounts as a percentage of Medicare<sup>1</sup> compared to other physician specialties, which means surprise medical bills in these situations can be very expensive compared to what that same physician would have accepted from Medicare and compared to other physician specialties. These charges can be as high as 1100% of Medicare in Texas for emergency services.
- While Texas has had a mediation law in place since 2009, there is still an extremely high rate of out-of-network services in emergency settings, putting patients at risk of surprise billing. While many of these services are eligible for mediation, relatively few consumers are taking advantage of it. The Center for Public Policy Priorities estimated that patients with commercial coverage with mediation available would receive surprise medical bills over 250,000 times in two years.<sup>2</sup> Fewer than 5,000 consumers a year are taking advantage of mediation,<sup>3</sup> indicating either a lack of consumer awareness or an overly-confusing process.

<sup>1</sup> USC-Brookings Schaffer Initiative Analysis of Medicare Provider Utilization and Payment Data, Physician and Other Supplier Public Use Files, calendar year 2016  
<sup>2</sup> A Texas-Sized Problem: How to Limit Out-of-Control Surprise Medical Billing, Stacey Pogue, CPPP, Feb. 2017  
<sup>3</sup> Texas Department of Insurance, Summary of Mediation Requests, Dec. 2018



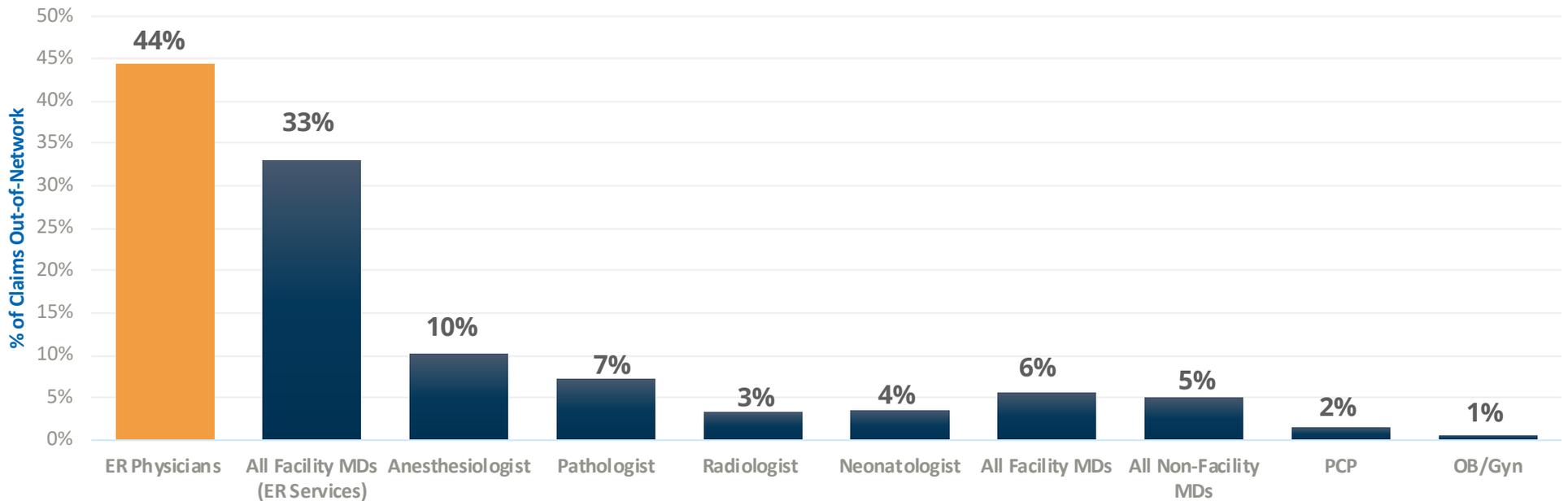
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## Summary of Findings and Conclusions

- Why is Texas' Out-of-Network Emergency Care Problem so Severe?
  - While state legislators have attempted to use mediation to address the problem, Texas' regulatory environment creates incentives for emergency care providers to stay out of health plan networks, which leads to more out-of-network claims and surprise bills.
  - TDI regulations mandate that Texas health plans make excessively-high payments to out-of-network emergency care providers. These payments are often three times higher than what in-network providers accept, creating an incentive for providers to stay out of network and make more money. Because these providers are out of network, they are able to send surprise bills on top of the already-high insurer payments, further increasing the incentive to stay out of network to increase profits.
  - Because patients cannot avoid out-of-network physicians during an emergency, emergency care providers do not have an incentive to be network providers to maintain a high volume of patient business.

# Percent of Texas Physician Claims That Are Out of Network (by Specialty)

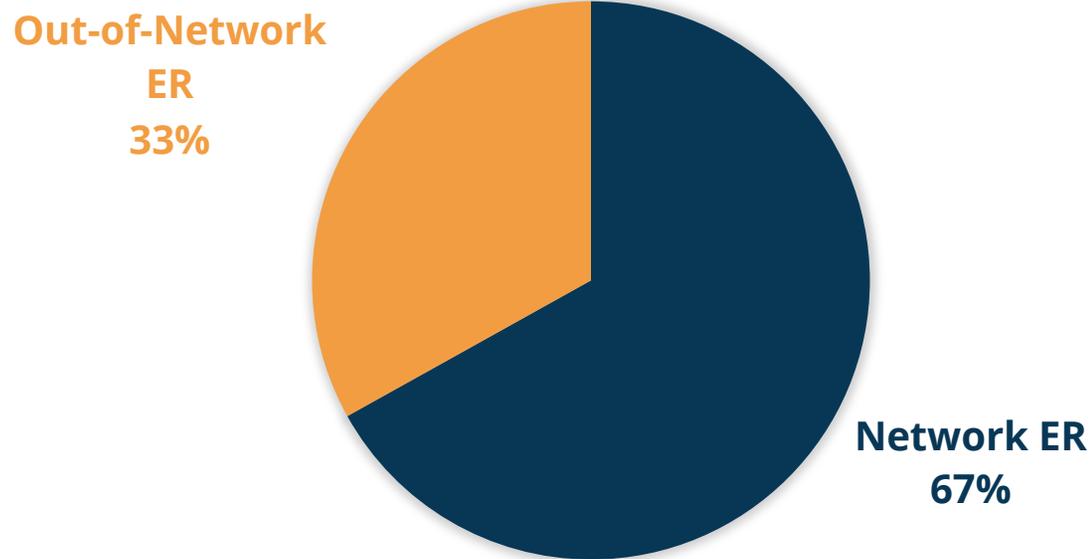
Almost 50% of all ER physician claims are out of network, substantially higher than all other physician specialties



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Physician Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claims for Emergency Services (by Location)

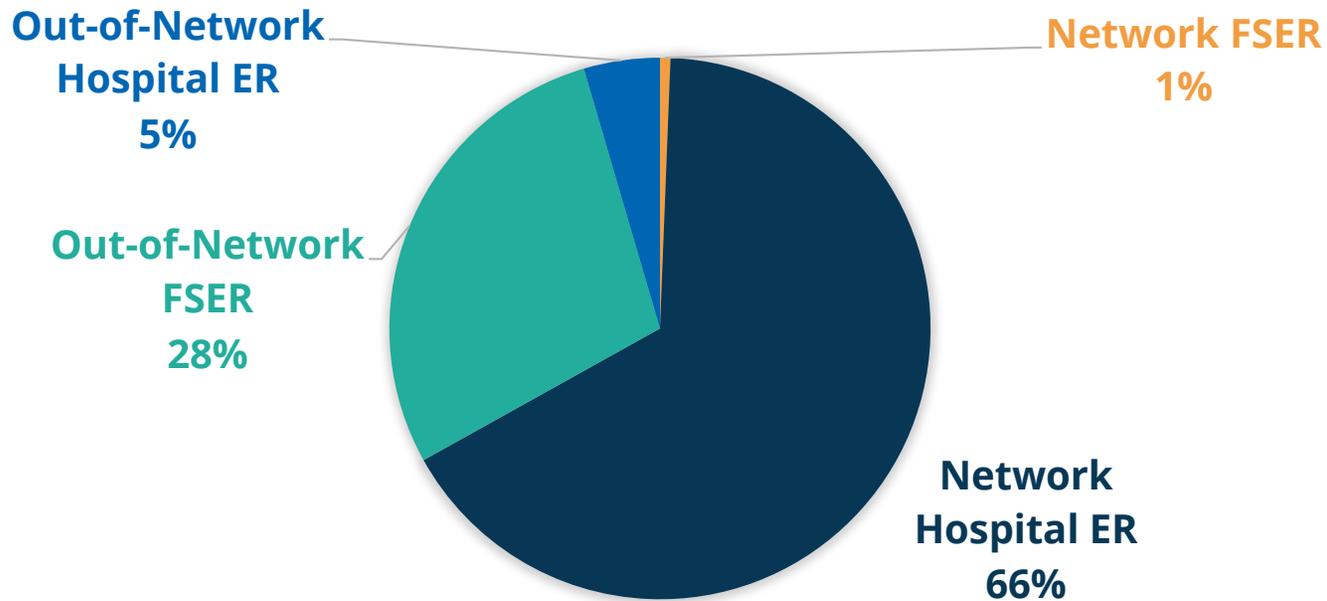
More than 65% of Texas out-of-network physician claims for emergency services happen at network ER facilities (Hospital ER + FSER)



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Out-of-Network Physician Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claims for Emergency Services (by Location)

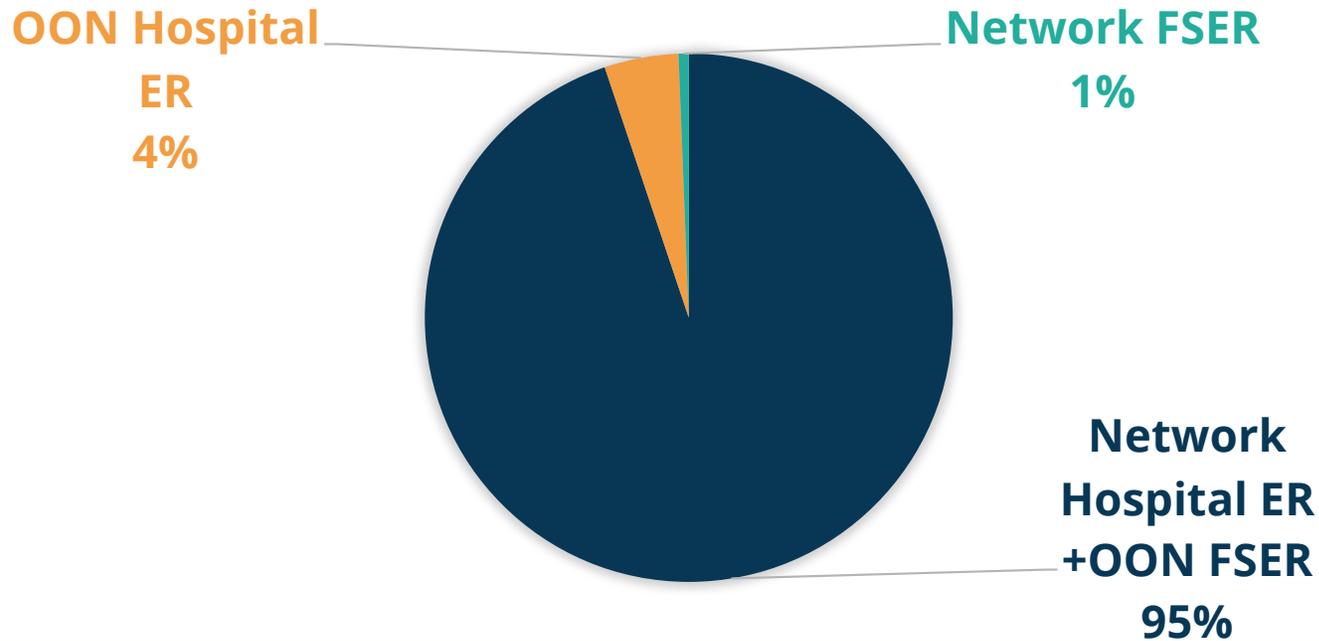
More than 65% of all Texas out-of-network physician claims for emergency services happen at network hospital ERs (Hospital ER + FSER)



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Out-of-Network Physician Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claims for Emergency Services (by Location)

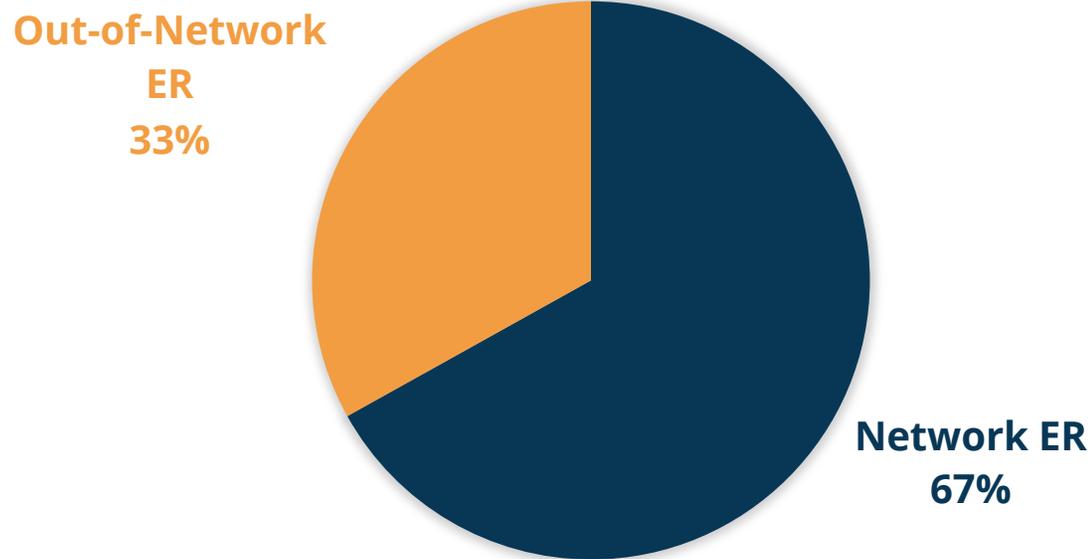
95% of all out-of-network physician claims for emergency services occur in either network hospital ERs or out-of-network FSERs (Hospital ER +FSER)



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Out-of-Network Physician Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claims for Emergency Services (by Location)

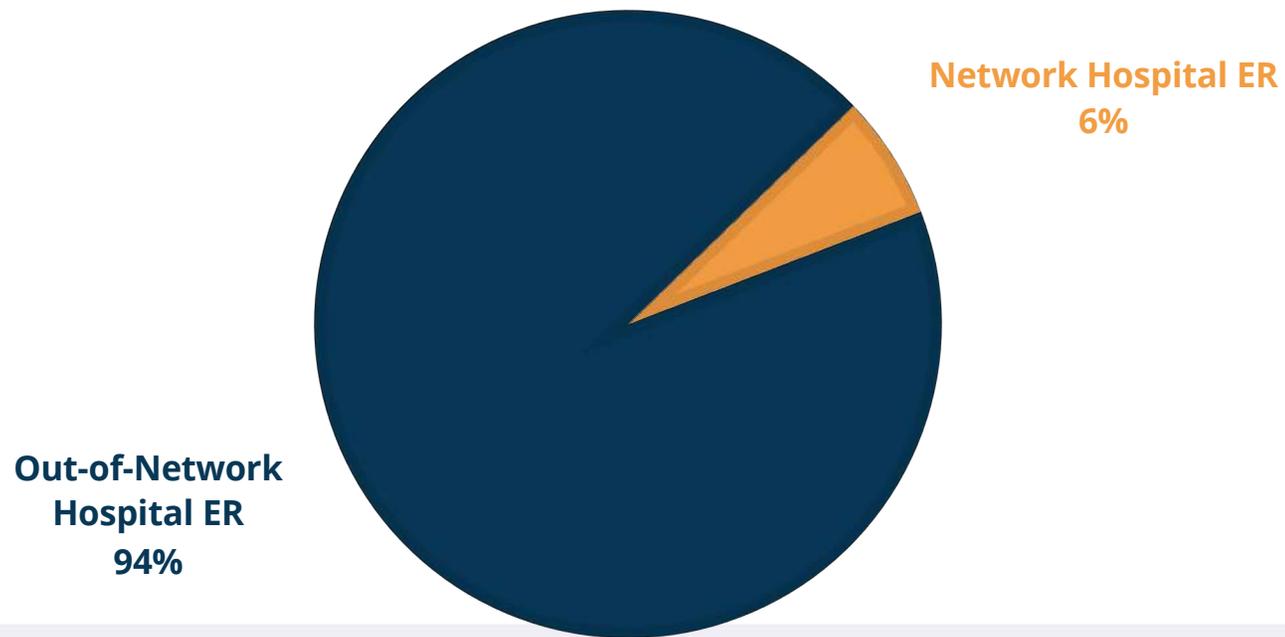
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Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Out-of-Network Physician Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claims for Emergency Services (by Location)

94% of Texas out-of-network physician claims for emergency services at hospital-based ERs occur at network hospitals (Hospital-Based ERs Only)



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Out-of-Network Physician Claims, Texas, 2017

# Percent of Texas ER Facility Claims Network vs. Out-of-Network

Only 19% of Texas ER facility claims are out of network

But 83% of out-of-network Texas ER facility claims occur at FSERs



■ Out-of Network ER Facility Claims

■ Network ER Facility Claims

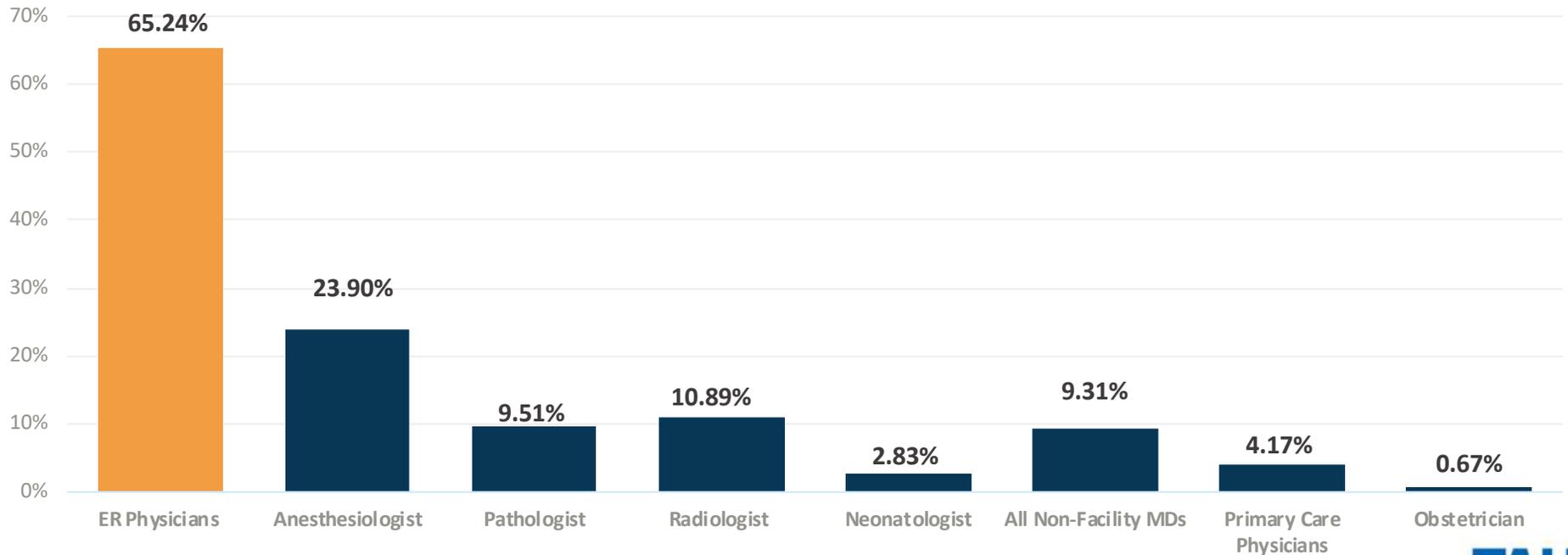
■ Out-of-Network FSER Claims

■ Out-of-Network Hospital ER Claims

Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Facility Claims, Texas, 2017

# Percent of Texas Out-of-Network Physician Claim Spending (by Specialty)

65% of ER Physician spending is out of network, substantially higher than all other physician specialties



Source: Aetna, Blue Cross Blue Shield of Texas and UnitedHealthcare Combined PPO Physician Claims, Texas, 2017