



Billing for Out-of-Network Services: California and Federal Law

Patient's Coverage Type	Emergency Services - Pre-Stabilization			Emergency Services - Post-Stabilization*			Non-Emergency/ Scheduled Services
	Noncontracting Physician at a Contracting Facility	Noncontracting Physician at a Noncontracting Facility	Noncontracting Hospital	Noncontracting Physician at a Contracting Facility	Noncontracting Physician at a Noncontracting Facility	Noncontracting Hospital	Noncontracting Physician at a Contracting Facility
ERISA/Federal Employee Health Benefit plans	NSA	NSA	NSA	NSA	NSA	NSA	NSA
Out-of-State Plan	NSA	NSA	NSA	NSA	NSA	NSA	NSA
Group or individual insurance coverage offered by a CDI-regulated health insurance issuer	NSA	NSA	NSA	Potentially AB 72 (if not, NSA)*	NSA	NSA	AB 72***
Knox-Keene plan	Payment likely determined under 28 CCR §1300.71(a)(3)(B) and <i>Children's Hosp. Central Cal. v. Blue Cross of Cal.</i> , 226 Cal. App. 4th 1260 (2014)	Payment likely determined under 28 CCR §1300.71(a)(3)(B) and <i>Children's Hosp. Central Cal. v. Blue Cross of Cal.</i> , 226 Cal. App. 4th 1260 (2014)	Payment likely determined under 28 CCR §1300.71(a)(3)(B) and <i>Children's Hosp. Central Cal. v. Blue Cross of Cal.</i> , 226 Cal. App. 4th 1260 (2014)	Potentially AB 72 (if not, NSA)*	NSA	If plan fails to respond to authorization request within 30 minutes: Health & Safety Code §1262.8(d)(2) If plan notifies that it will assume management but fails to transfer patient within a reasonable time: Health & Safety Code §1262.8(d)(3) Otherwise, NSA**	AB 72***

Notes:

* AB 72 does not apply to emergency services, but is potentially applicable to determining plan payment for post-stabilization services as they are not emergency services. If AB 72 does not govern payment, the NSA would apply to determine plan payment (unless notice and consent is obtained in accordance with the NSA such that balance billing is permitted).

** Although Health & Safety Code §1262.8(f) permits balance billing if the patient declines transfer, balance billing is not permitted unless the NSA notice and consent criteria at 45 C.F.R. §149.410(b) are also satisfied. The NSA would govern payment for post-stabilization services in cases of a declined transfer absent notice and consent under 45 C.F.R. §149.410(b).

*** AB 72 would govern plan payment for these services provided without notice and consent. Patient notice and consent for non-emergency services, however, must satisfy the criteria at 45 C.F.R. §149.420(c) as well as AB 72. For example, if a patient provides consent in accordance with AB 72 but not 45 C.F.R. §149.420(c), the balance billing and payment provisions of the NSA would apply.