

Balance billing protections

Senate Bill 1264
biennial report

2020



Texas Department of Insurance
www.tdi.texas.gov

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Overview

In 2019, the Texas Legislature passed Senate Bill 1264 to protect consumers who have certain state-regulated health plans from surprise medical bills. The new law requires the Texas Department of Insurance (TDI) to issue a report on the impacts of the legislation each biennium. This report includes arbitration and mediation information maintained by TDI and the data collected from health plans as authorized by SB 1264. Because of the limited time covered, the data does not yet support trend analysis. This initial set of data creates a foundation for future reports and analyses.

Arbitration

SB 1264 outlines an arbitration process for billing disputes between out-of-network health care providers (not facilities) and health plans. From January 1 through October 31, 2020, TDI received 32,036 requests for arbitration.

Settled in informal teleconference

Most provider requests for dispute resolution are settled during an informal teleconference before an arbitrator is assigned.



Decided by an arbitrator



Mediation

SB 1264 outlines a mediation process for billing disputes between out-of-network facilities and health plans. From January 1 through October 31, 2020, TDI received 1,799 requests for mediation.

Settled in informal teleconference

Most requests for dispute resolution are settled during an informal teleconference before a mediator is assigned.



Settled with a mediator



Health plan data

TDI collected data from 30 commercial health plan issuers, accounting for more than 99% of Texans covered by comprehensive health coverage regulated by TDI. The Texas Teacher Retirement System (TRS) and Employees Retirement System of Texas (ERS) also provided data for this report.

According to data provided by health plans:

- There is wide disparity in the degree to which providers contract with health plans among the different provider types. For example, hospitals are far more likely to be in-network than freestanding emergency rooms and ambulances.
- In the first half of 2019, health plans were more likely to terminate network arrangements than providers. Starting with the third quarter of 2019, providers were more likely to initiate terminations.
- About 20% of emergency care was billed as out-of-network.
- Health plans reimburse in-network providers more of their billed amounts than out-of-network providers.

Complaint data

The state's new balance billing protections remove the consumer from the middle of billing disputes between providers and health plans. This has resulted in sharp declines in complaints received:

- Consumer complaints about balance billing are down 96% in 2020. TDI received 37 consumer complaints about balance bills through October 31, 2020, down from 854 for the same period in 2019. Most of the complaints involved confusion about coinsurance amounts or plans not regulated by TDI.
- Provider complaints have decreased almost 70% this year. Before SB 1264, consumers could request mediation for certain surprise bills, but the only option for providers to resolve billing disputes through TDI was to file a complaint. TDI received 2,793 complaints from health care providers and billing services through October 31, 2020. TDI received 9,080 provider complaints about billing during the same period in 2019.

Background

In 2019, the Legislature passed Senate Bill 1264 to address the problem of surprise medical billing. SB 1264 protects consumers in emergencies and situations where the consumer did not select the provider (such as the radiologist who reviewed an X-ray). In these circumstances, out-of-network providers and facilities are prohibited from billing the consumer more than the consumer's cost sharing for in-network services. SB 1264 applies to services received on or after January 1, 2020.

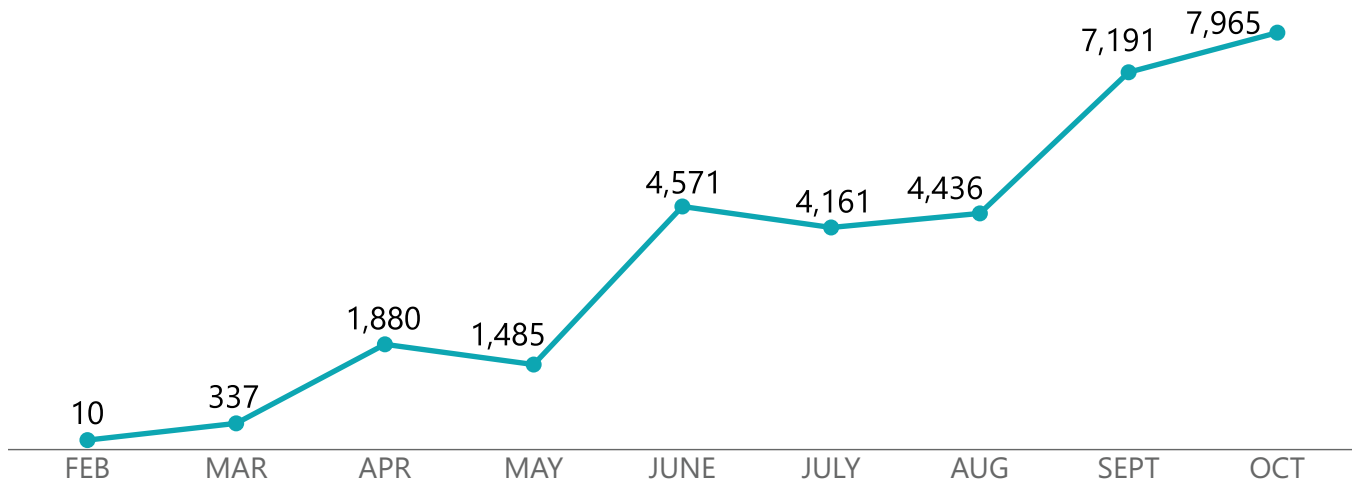
SB 1264 applies to health plans regulated by TDI and people with coverage through the state employee or teacher retirement systems – or about 20% of Texans. It creates two distinct billing dispute resolution processes – arbitration for physicians and other similar providers and mediation for facilities and labs. SB 1264 does not apply in situations when a consumer chooses to use an out-of-network provider or does not use health insurance.

Information on arbitration and mediation processes and timelines is available on [the TDI website](#).

Arbitration

SB 1264 outlines an arbitration process for billing disputes between out-of-network health care providers (not facilities) and health plans. From January 1 through October 31, 2020, TDI received 32,036 requests for arbitration.

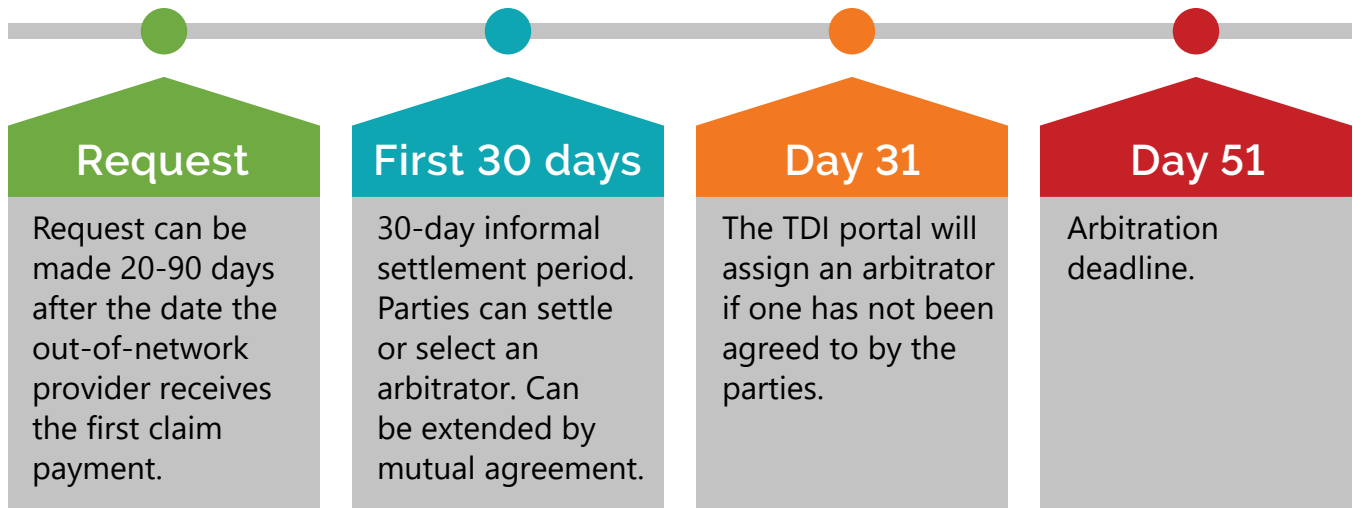
Arbitration requests



Arbitration requests by provider type

Provider type	Requests
Emergency department physician	27,492
Anesthesiologist	2,138
Certified Registered Nurse Anesthetist	609
Assistant surgeon	425
Hospitalist	339
Neurologist	18
Neuromonitor	55
Nurse practitioner	22
Pathologist	130
Physician assistant	96
Surgeon	189
Surgical assistant	437
Other	86
Total	32,036

Arbitration timeline



How cases are resolved

Some requests received through October 31, 2020, are still in the dispute resolution process or were not eligible for dispute resolution under SB 1264.

Arbitration request resolution

- 20,845 requests settled in the first 30 days
- 6,317 requests settled by an arbitrator
- 3,073 ineligible or other

The resolution data below reflect requests involving a single claim for services. Requests involving multiple claims were excluded to avoid skewing the data.

Settled in informal teleconference



Decided by an arbitrator



Bundled requests

SB 1264 allows providers to include multiple claims on a single arbitration request, as long as the total amount in dispute is \$5,000 or less and involves a single provider. Through October 31, 2020, 34% of arbitration requests have involved multiple claims.

Arbitrator fees

SB 1264 does not limit arbitrator fees. Instead, arbitrators set their own fixed fees per case. There is no fee to submit a request for dispute resolution or take part in informal settlement discussions. Each party pays half the fee once TDI assigns the case to an arbitrator.

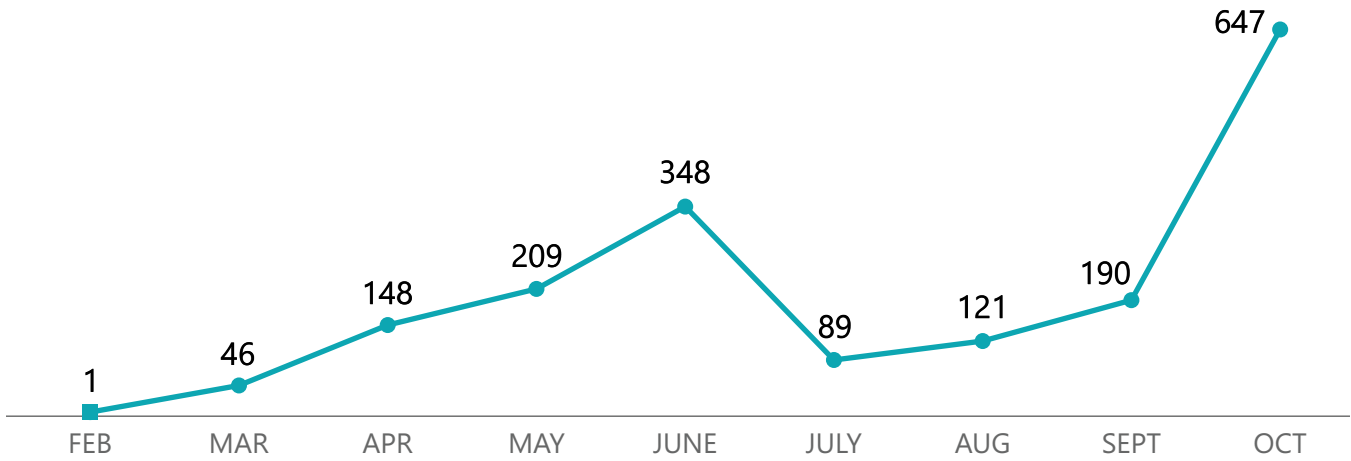
Median fee:	\$1,000
Lowest fee:	\$270
Highest fee:	\$6,000
Total fees paid:	\$7,790,925

Mediation

SB 1264 outlines a mediation process for billing disputes between out-of-network facilities and health plans. To date, TDI has received far fewer requests for mediation than for arbitration. At this point the reasons for the difference are unclear. However, unlike arbitration, there is no deadline under the law to submit a mediation request.

From January 1 through October 31, 2020, TDI received 1,799 requests for mediation.

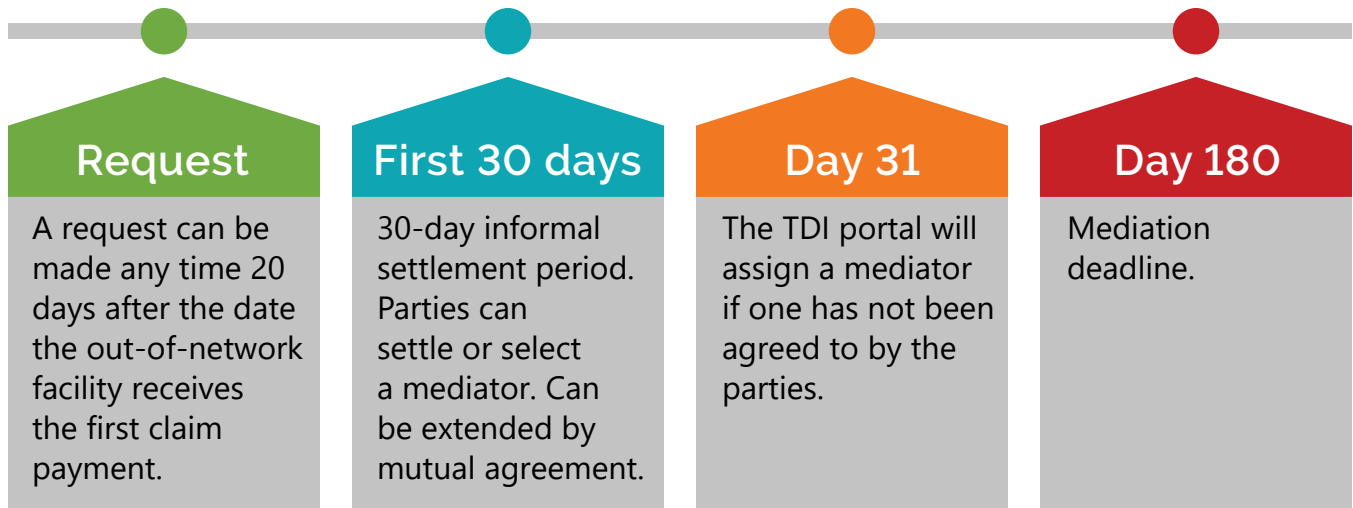
Mediation requests



Mediation requests by facility type

Provider type	Requests
Freestanding emergency room	1,014
Hospital	765
Ambulatory surgical center	20
Total	1,799

Mediation timeline



Resolution of mediation requests

Some requests received through October 31, 2020, are still in the dispute resolution process or were not eligible for dispute resolution under SB 1264.

Mediation request resolution

- 931 requests settled in the first 30 days
- 30 requests settled by a mediator
- 490 ineligible or other

The resolution data below reflect requests involving a single claim for services. Requests involving multiple claims were excluded to avoid skewing the data.

Settled in informal teleconference



Settled with a mediator



Bundled requests

TDI rules allow parties to a mediation to combine claims by mutual agreement for a single facility into one request. Through October 31, 2020, 3% of requests have involved multiple claims.

Mediator fees

SB 1264 does not limit the fees charged by mediators. Instead, mediators set their own fixed fees per case. There is no fee to submit a request for dispute resolution or take part in informal settlement discussions. Each party pays half the fee once TDI assigns the case to a mediator or arbitrator.

Median fee:	\$750
Lowest fee:	\$80
Highest fee:	\$3,750
Total fees paid:	\$208,539

Health plan data

SB 1264 requires that TDI collect data about balance billing and dispute resolution and produce a report by December 1 of every even numbered year. TDI first collected data from issuers in the fall of 2020. To give the health plans time to report data, TDI collected data only through the first two quarters of 2020 – or six months into the implementation of SB 1264. The limited time period covered, along with the impact of COVID-19 on medical services, makes it difficult to draw conclusions based on this early data.

Data in this report comes from 30 commercial health plan issuers, accounting for more than 99% of Texans covered by comprehensive health coverage regulated by TDI. Additionally, this report includes data from Texas Teacher Retirement System (TRS) which covered about 700,000 people in 2019, as well as data from Employees Retirement System of Texas (ERS), which covered about 540,000 people in 2019.

TDI also requested data on ambulance services, although this information was voluntary. Ambulance services are excluded from SB 1264's dispute resolution processes. Most health plans included ambulance data, but six did not. TDI estimates that the issuers that reported ambulance data account for about 85% of the regulated market.

Network providers

Data from 32 health plan issuers (including ERS and TRS) is included in this report. Because health plans contract with many of the same providers, aggregating the numbers of providers reported by each plan would inflate the number of providers due to counting providers more than once. Therefore, we looked at the numbers reported by each plan and determined an average number of network providers for six quarters, beginning with the first quarter of 2019 and ending with the second quarter of 2020. Health plans reported that they were far less likely to have network arrangements with freestanding ERs and assistant surgeons than with other provider types.

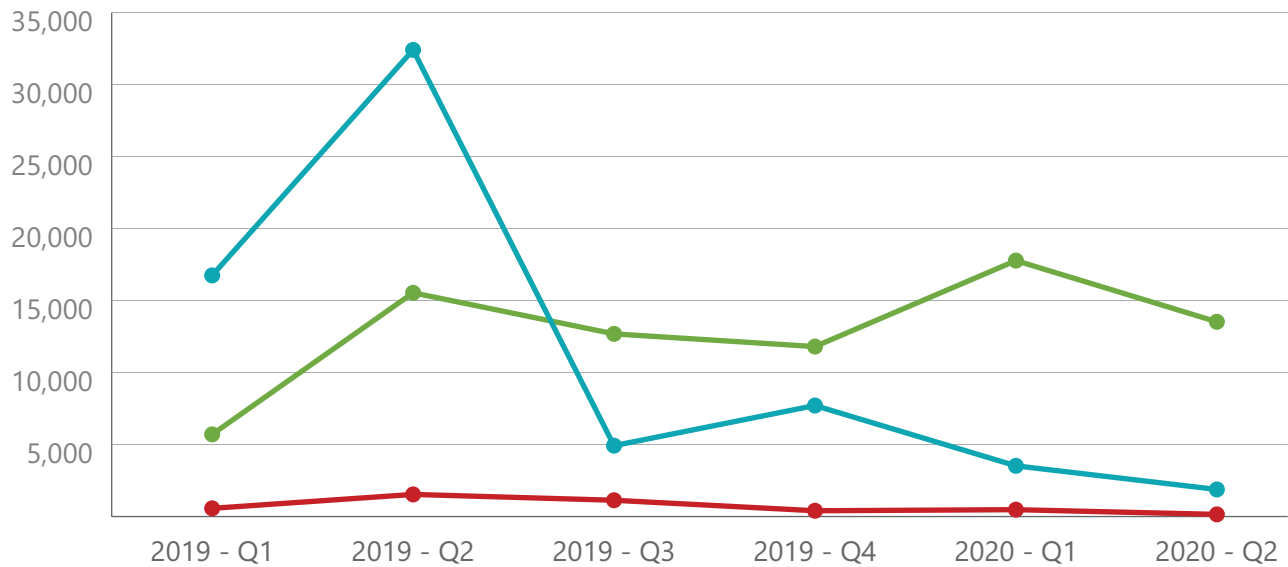
Average number of network providers – 2019 Q1 through 2020 Q2

Provider	Emergency	Lab	Diagnostic	Facility-based
Hospitals	766	1,157	1,178	771
Freestanding ERs	26	4	4	2
Anesthesiologists	2,445	701	2,457	3,156
Emergency physicians	1,483	190	194	1,302
Pathologists	119	535	523	514
Radiologists	992	908	1,402	1,140
Assistant surgeons	-	-	-	806
Surgical assistants	11	2	17	98
Air ambulance	14	1	1	1
Ground ambulance	32	6	6	5

Network terminations

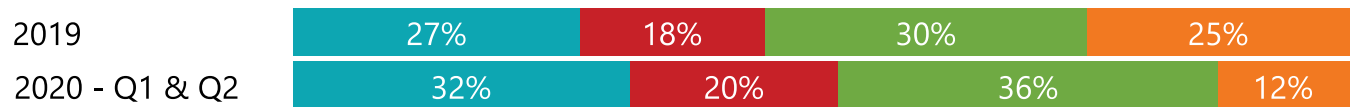
Health plans reported the numbers of network terminations initiated each quarter. A network termination is when a medical provider leaves a health plan’s network. This can be initiated by the health plan, a plan administrator, or by the provider. Terminations are shown in aggregate, but it is possible that a single provider experienced a termination from more than one health plan during the quarter. For example, a doctor who retires would be terminated from all health plans that included the doctor.

Terminations by initiated type



Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
● Health plan insurers	16,813	32,474	4,991	7,778	3,590	1,949
● Administrators	638	1,604	1,199	470	545	218
● Providers	5,772	15,606	12,753	11,872	17,842	13,592

Provider terminations



Year	Emergency	Lab	Diagnostics	Facility-based
2019	30,270	19,879	34,119	27,702
2020 - Q1 and Q2	12,202	7,312	13,655	4,567

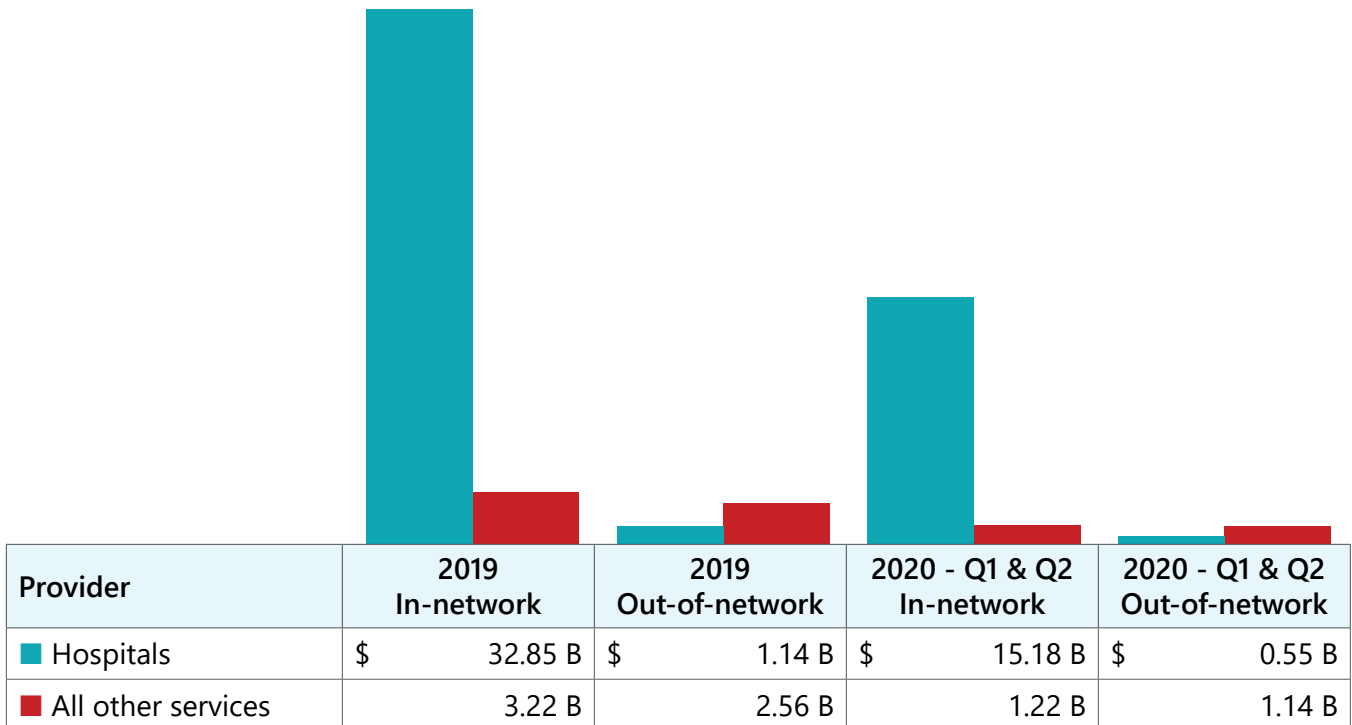
Billing for medical services

Data collected by TDI included the total amounts billed in each quarter by the following provider types:

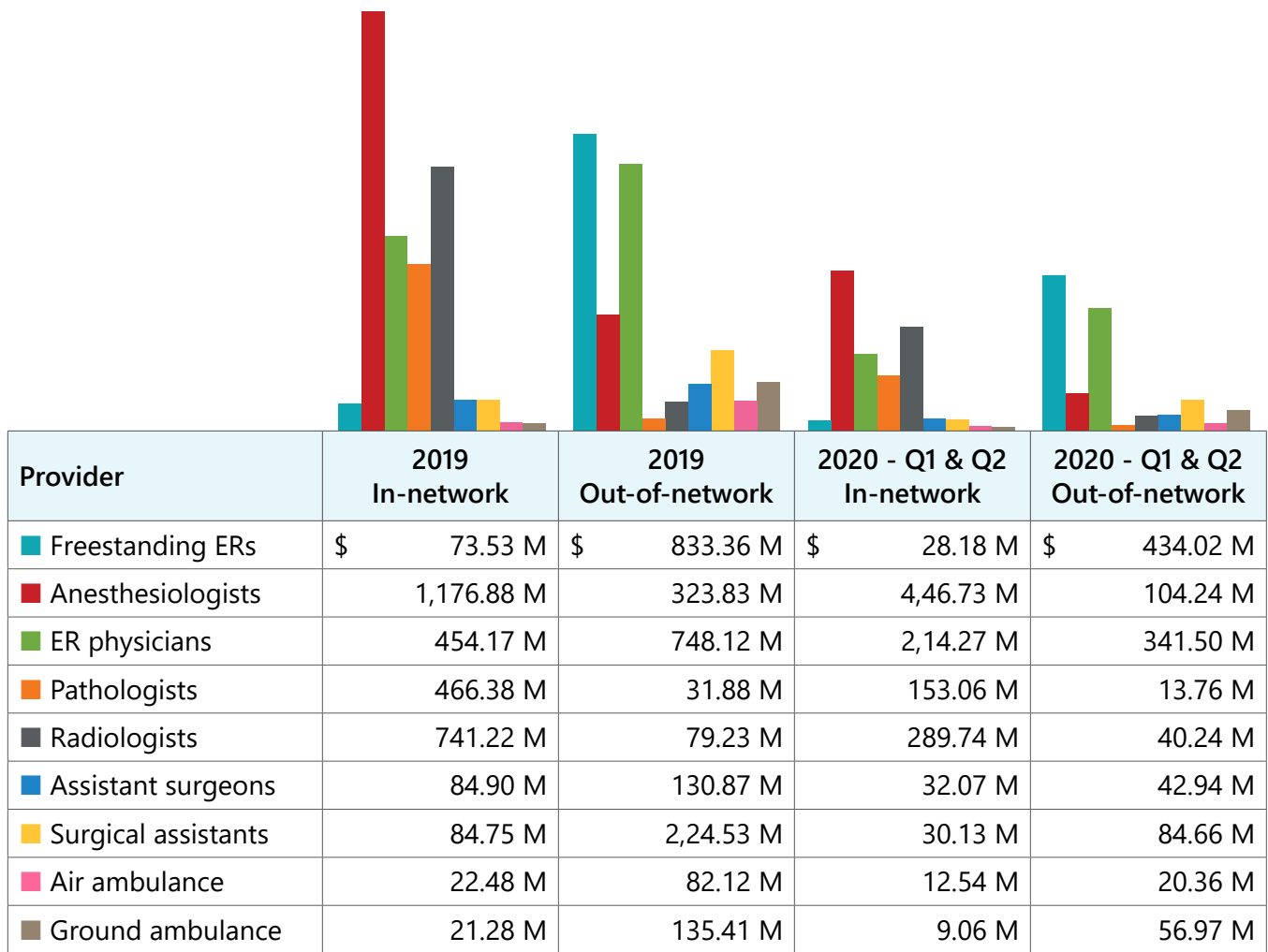
- Hospitals (facilities except freestanding ERs)
- Freestanding emergency rooms
- Anesthesiologists
- Emergency physicians
- Pathologists
- Radiologists
- Assistant surgeons
- Surgical assistants
- Air ambulance
- Ground ambulance

Most apparent from the data was the amount of business conducted by hospitals compared to other services. This was most noticeable for services that were billed in-network, or through a contract between the service provider and the health plan, as shown by the chart below.

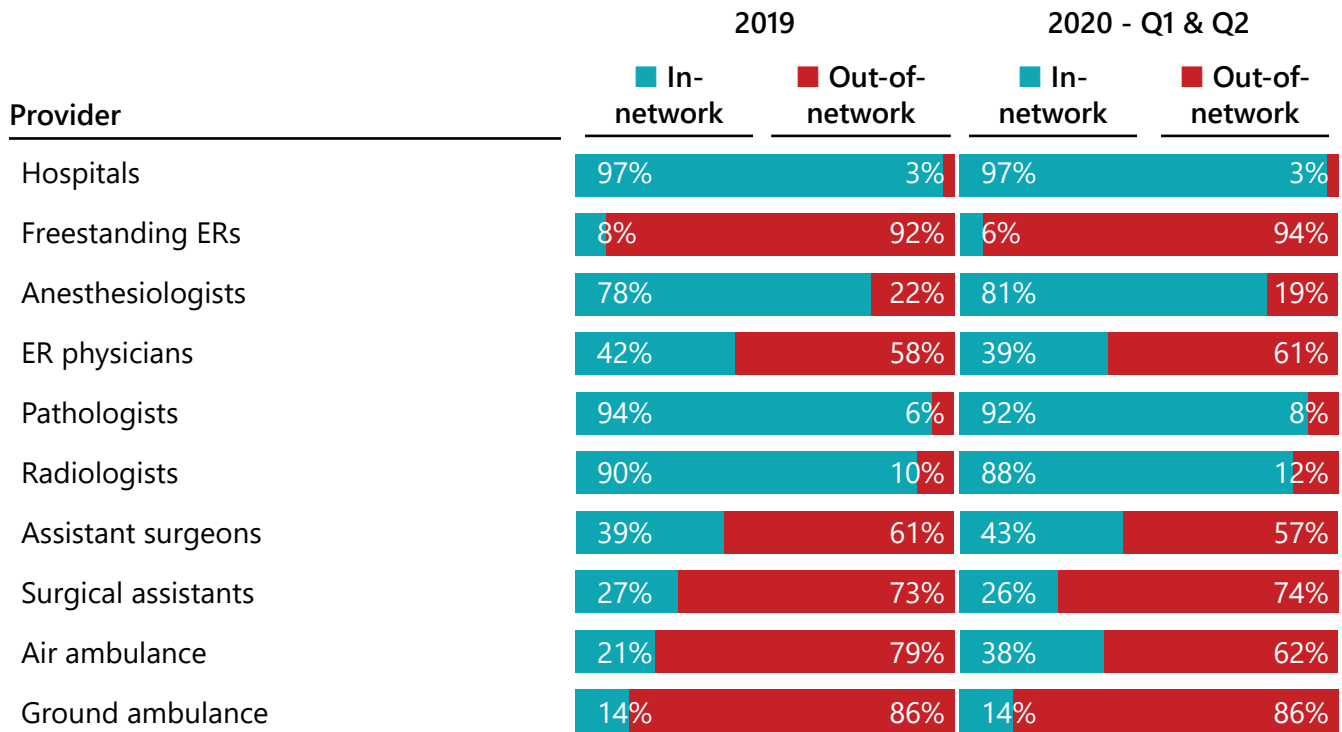
Hospital billed amounts



Billed amounts by provider type

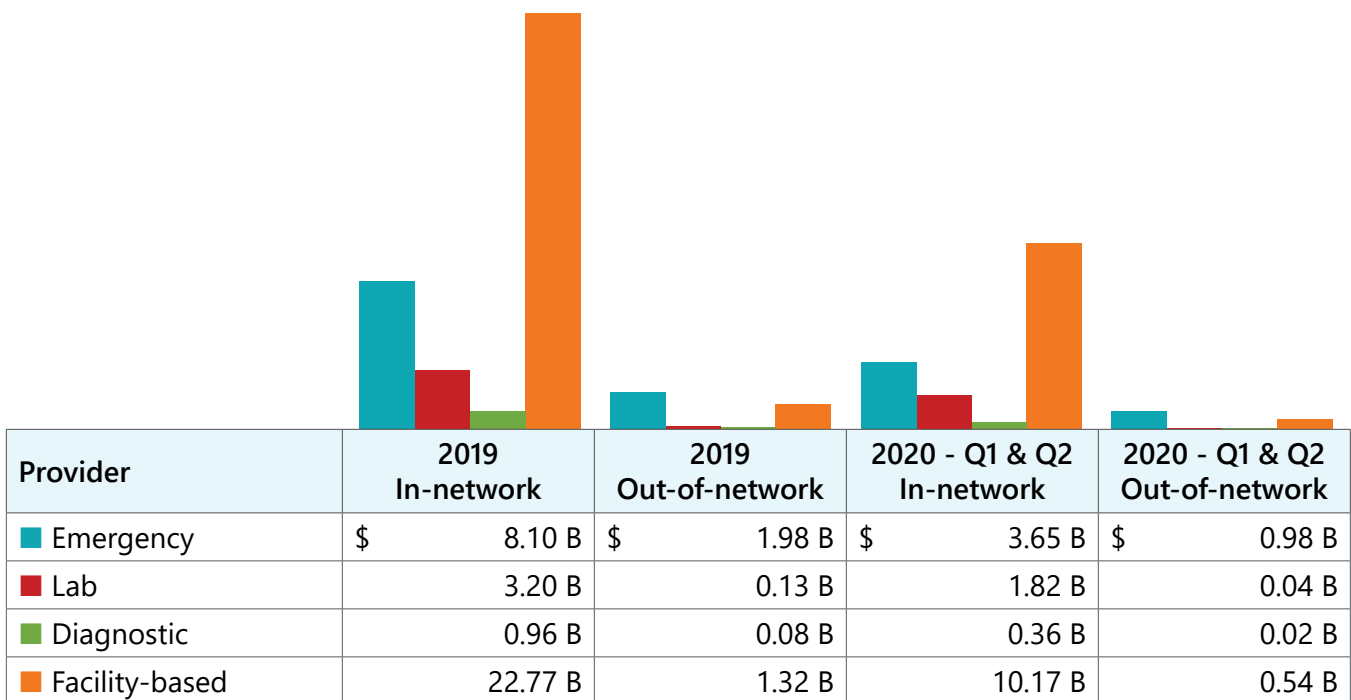


In-network vs. out-of-network billed amounts



Health plans reported billed amounts by service type, categorizing them as facility-based, diagnostic, lab, or emergency.

Billed amounts by service type



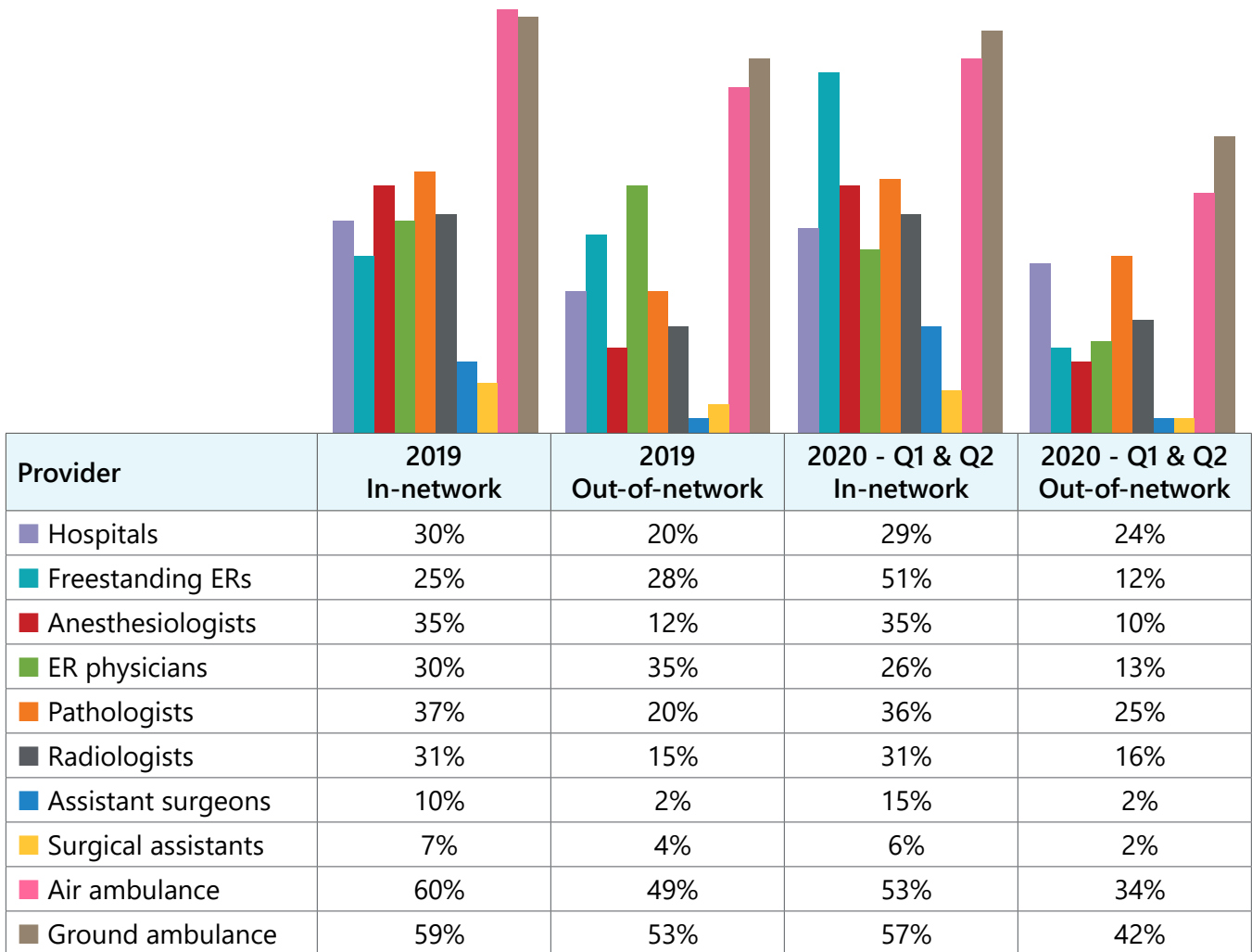
Payment for medical services

Most of the billing and payment data was collected according to the quarter in which the transaction occurred. A bill that is received might be paid that same quarter or it might be paid in a subsequent quarter. This report does not attempt to “track” bills to their respective payments. Instead, health plans were required to submit total billed amounts occurring each quarter and total payments made each quarter.

Most services show a pronounced decline in billed amounts during the first two quarters of 2020. This is likely explained in part by the governor’s March 2020 order to postpone elective surgeries and procedures to ensure hospital capacity for COVID-19 patients.

Among service providers, the portion of the bill that is paid varies widely by provider type.

Percentage of billed amount paid

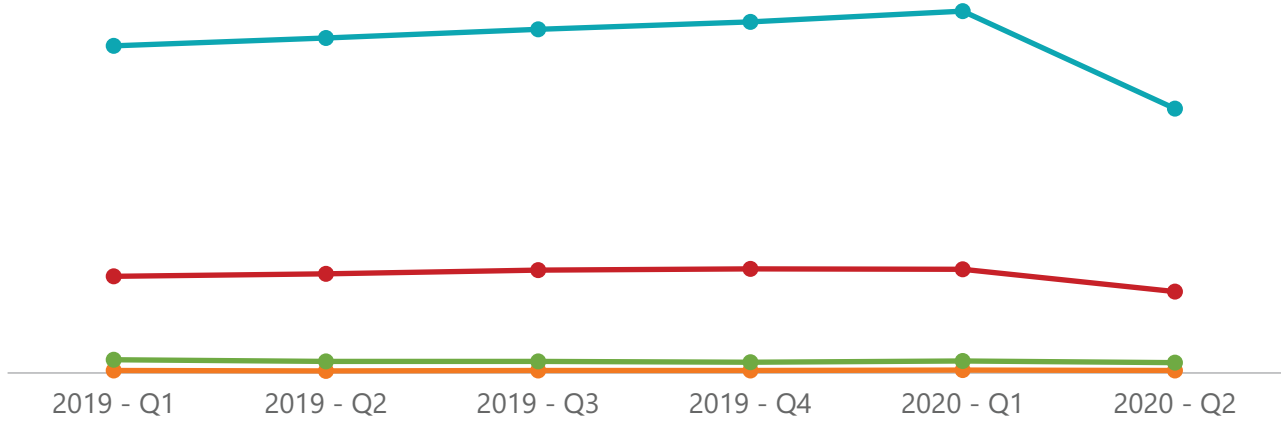


2019 billed amounts by provider type

Provider type	In-network billed	In-network paid	Out-of-network billed	Out-of-network paid
Hospitals	\$ 32,845,511,759	\$ 9,747,083,049	\$ 1,143,780,437	230,152,572
Freestanding ERs	73,532,796	18,644,184	833,357,357	231,822,128
Anesthesiologists	1,176,879,129	412,184,175	323,832,603	37,286,381
Emergency physicians	545,174,229	164,412,785	748,118,621	261,731,720
Pathologists	466,376,873	174,028,378	31,884,552	6,456,197
Radiologists	741,217,922	233,081,428	79,226,302	12,179,356
Assistant surgeons	84,897,438	8,580,809	130,872,698	2,606,698
Surgical assistants	84,752,651	5,532,600	224,526,502	8,898,304
Air ambulance	22,477,256	13,555,898	82,118,421	40,509,389
Ground ambulance	21,283,385	12,656,684	135,408,859	71,146,453

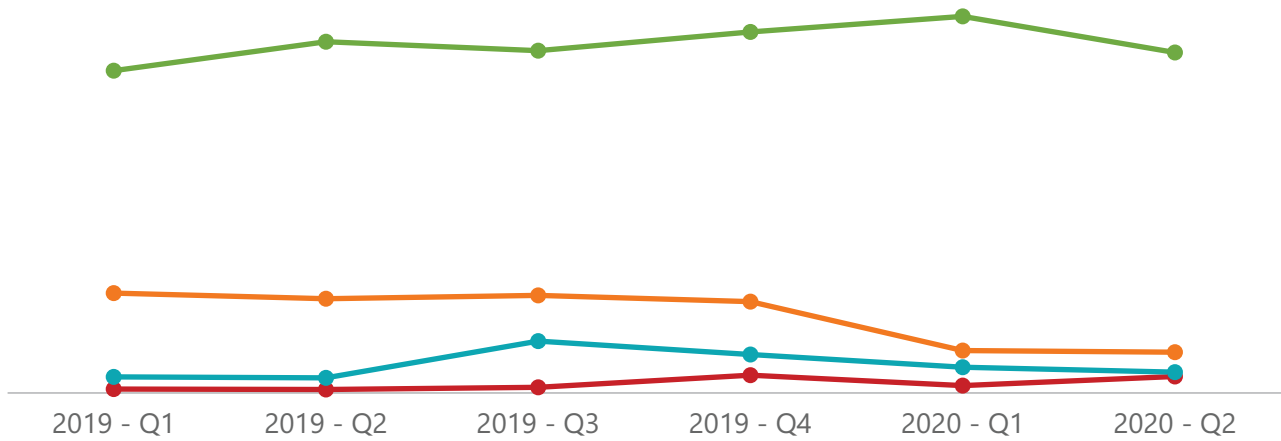
Billed and paid amounts for in-network and out-of-network providers

Hospitals



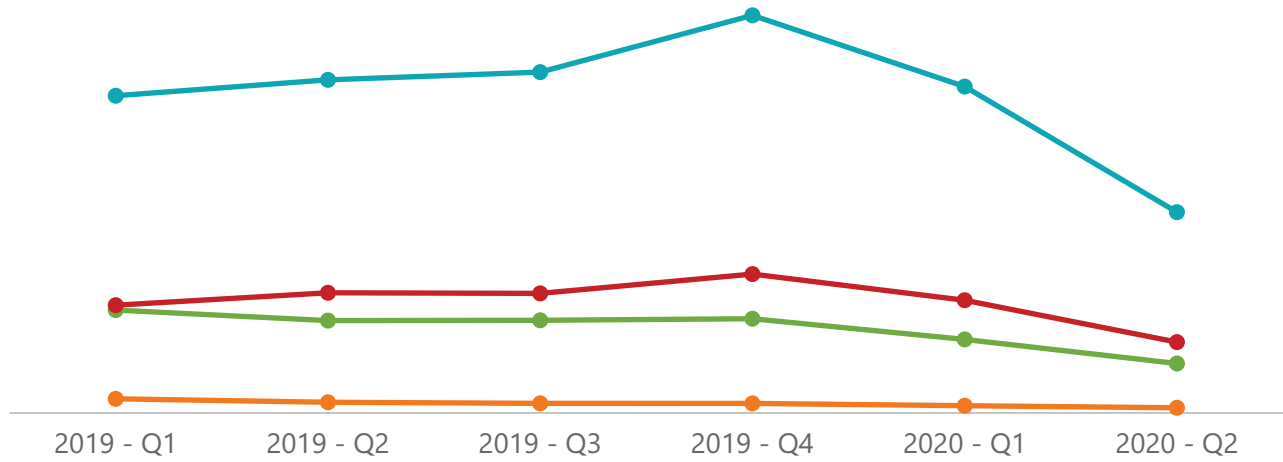
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
● In-network billed	\$ 7.92 B	\$ 8.11 B	\$ 8.32 B	\$ 8.50 B	\$ 8.76 B	\$ 6.40 B
● In network paid	2.34 B	2.4 B	2.49 B	2.52 B	2.52 B	1.97 B
● Out-of-network billed	0.32 B	0.28 B	0.28 B	0.26 B	0.26 B	0.25 B
● Out-of-network paid	0.06 B	0.05 B	0.06 B	0.06 B	0.06 B	0.06 B

Freestanding ERs



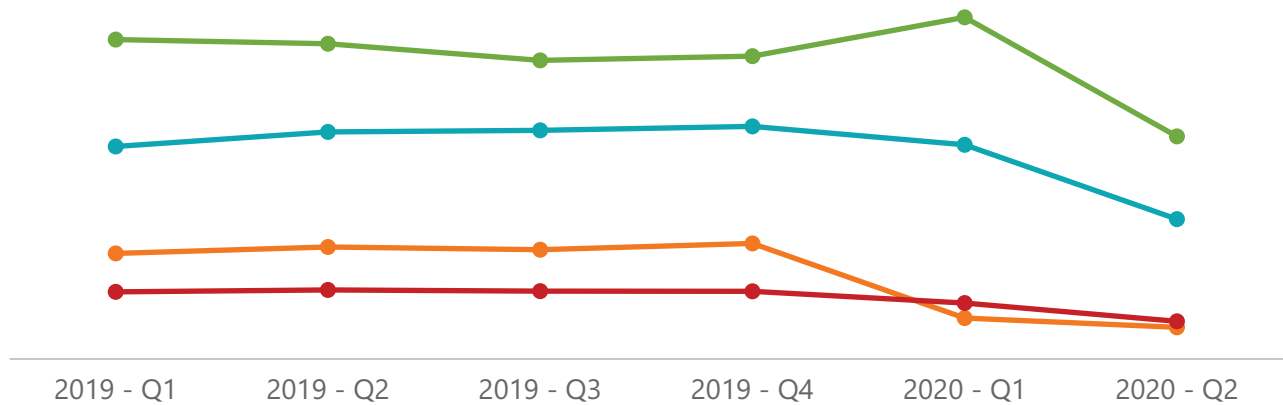
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
● In-network billed	\$ 9.73 M	\$ 9.15 M	\$ 31.39 M	\$ 23.27 M	\$ 15.58 M	\$ 12.60 M
● In network paid	2.36 M	2.10 M	3.42 M	10.76 M	4.46 M	9.98 M
● Out-of-network billed	195.07 M	212.59 M	207.18 M	218.52 M	227.94 M	206.08 M
● Out-of-network paid	60.44 M	57.04 M	59.06 M	55.28 M	25.67 M	24.68 M

Anesthesiologists



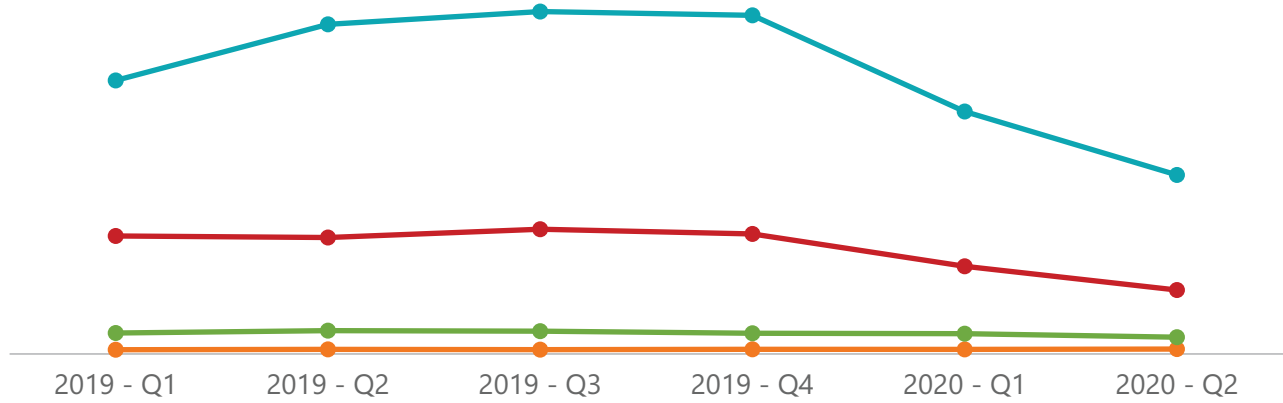
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 268.83 M	\$ 282.27 M	\$ 288.83 M	\$ 336.94 M	\$ 276.58 M	\$ 170.15 M
In network paid	91.32 M	101.84 M	101.33 M	117.69 M	95.53 M	60.04 M
Out-of-network billed	87.19 M	78.27 M	78.53 M	79.84 M	62.31 M	41.92 M
Out-of-network paid	11.99 M	9.07 M	8.14 M	8.08 M	6.16 M	4.39 M

Emergency physicians



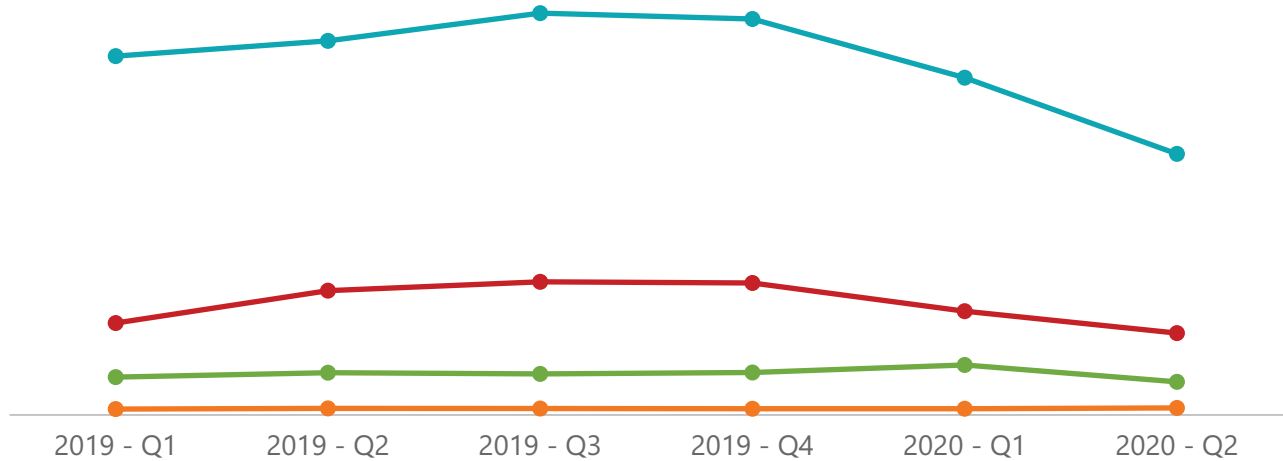
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 128.61 M	\$ 137.42 M	\$ 138.38 M	\$ 140.77 M	\$ 129.64 M	\$ 84.63 M
In network paid	40.62 M	41.78 M	41.06 M	40.95 M	33.84 M	22.78 M
Out-of-network billed	193.32 M	190.79 M	180.73 M	183.28 M	206.79 M	134.72 M
Out-of-network paid	63.89 M	67.78 M	66.13 M	69.93 M	24.76 M	19.15 M

Pathologists



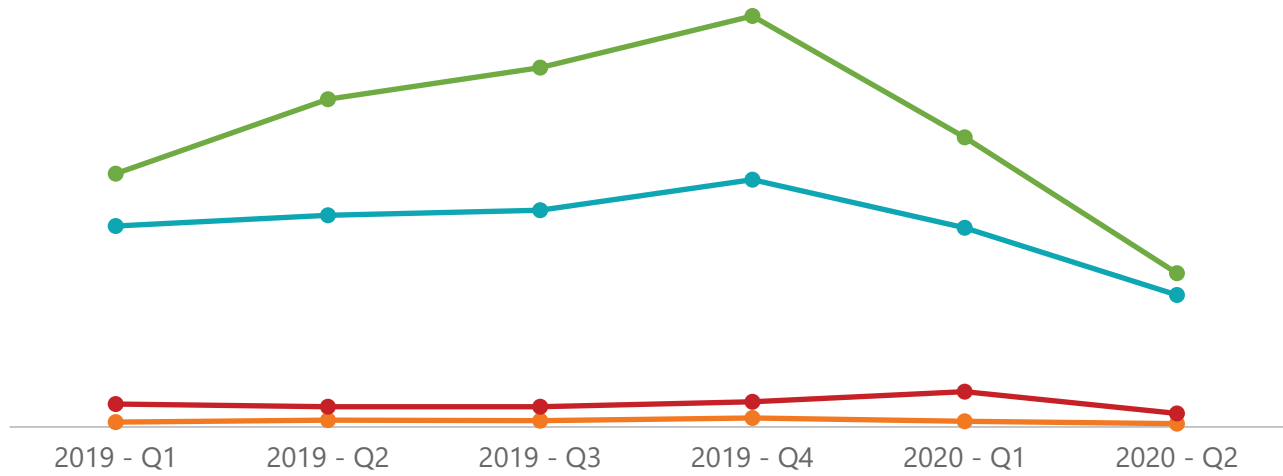
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
● In-network billed	\$ 99.33 M	\$ 119.71 M	\$ 124.35 M	\$ 122.98 M	\$ 88.05 M	\$ 65.01 M
● In network paid	42.85 M	42.29 M	45.30 M	43.59 M	31.84 M	23.22 M
● Out-of-network billed	7.61 M	8.47 M	8.28 M	7.52 M	7.367 M	6.09 M
● Out-of-network paid	1.54 M	1.67 M	1.57 M	1.69 M	1.66 M	1.78 M

Radiologists



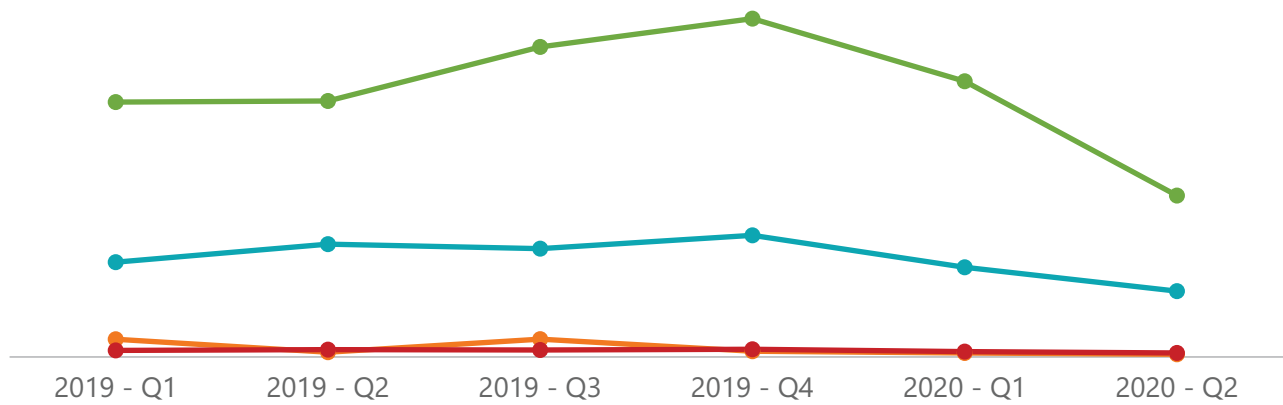
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
● In-network billed	\$ 173.76 M	\$ 181.15 M	\$ 194.57 M	\$ 191.74 M	\$ 163.31 M	\$ 126.43 M
● In network paid	44.51 M	60.19 M	64.47 M	63.91 M	50.25 M	39.64 M
● Out-of-network billed	18.33 M	20.46 M	19.88 M	20.56 M	24.21 M	16.04 M
● Out-of-network paid	2.86 M	3.18 M	3.12 M	3.02 M	3.02 M	3.41 M

Assistant surgeons



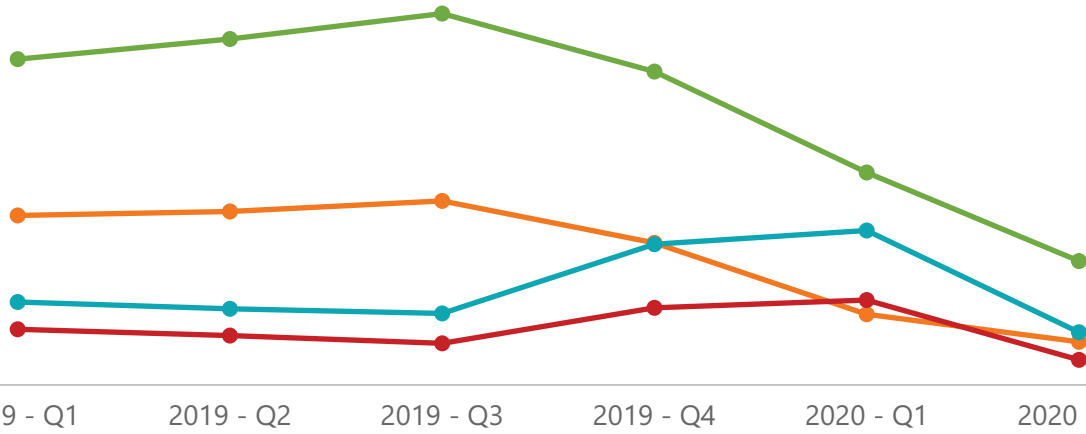
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 19.46 M	\$ 20.50 M	\$ 20.99 M	\$ 23.95 M	\$ 19.29 M	\$ 12.78 M
In network paid	2.22 M	1.96 M	1.96 M	2.44 M	3.42 M	1.31 M
Out-of-network billed	24.53 M	31.74 M	34.80 M	39.80 M	28.05 M	14.89 M
Out-of-network paid	0.47 M	0.66 M	0.61 M	0.87 M	0.55 M	0.32 M

Surgical assistants



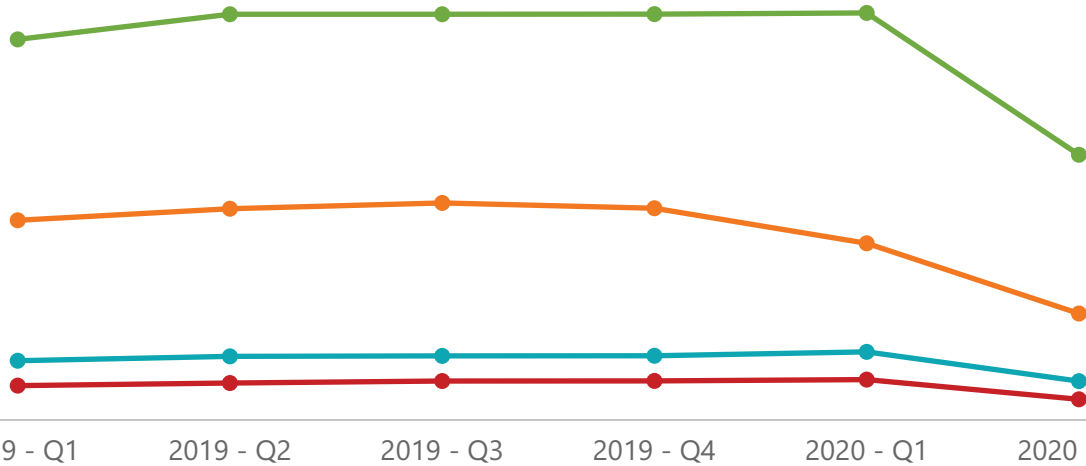
Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 18.36 M	\$ 21.85 M	\$ 20.98 M	\$ 23.56 M	\$ 17.37 M	\$ 12.75 M
In network paid	1.27 M	1.42 M	1.35 M	1.49 M	1.04 M	0.78 M
Out-of-network billed	49.37 M	49.58 M	60.05 M	65.53 M	53.40 M	31.26 M
Out-of-network paid	3.43 M	0.92 M	3.45 M	1.11 M	0.77 M	0.52 M

Air ambulance



Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 5.02 M	\$ 4.61 M	\$ 4.33 M	\$ 8.52 M	\$ 9.35 M	\$ 3.19 M
In network paid	3.37 M	2.99 M	2.52 M	4.67 M	5.14 M	1.52 M
Out-of-network billed	19.72 M	20.94 M	22.48 M	18.97 M	12.86 M	7.50 M
Out-of-network paid	10.26 M	10.5 M	11.14 M	8.60 M	4.28 M	2.61 M

Ground ambulance



Provider	2019 - Q1	2019 - Q2	2019 - Q3	2019 - Q4	2020 - Q1	2020 - Q2
In-network billed	\$ 5.02 M	\$ 5.39 M	\$ 5.43 M	\$ 5.44 M	\$ 5.77 M	\$ 3.29 M
In network paid	2.91 M	3.13 M	3.30 M	3.31 M	3.42 M	1.75 M
Out-of-network billed	32.25 M	34.38 M	34.38 M	34.39 M	34.49 M	22.47 M
Out-of-network paid	16.92 M	17.90 M	18.39 M	17.94 M	14.97 M	9.02 M

Complaints to licensing boards

SB 1264 required TDI to collect data from licensing boards concerning complaints, investigations, and disciplinary sanctions.

The Texas Medical Board reported four complaints and two completed investigations through June 30, 2020. No complaints were reported by the Board of Nursing, Health and Human Services Commission, and Texas Department of Licensing and Regulation.



Texas Department of Insurance
Balance billing protections | Senate Bill 1264 biennial report

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