

Texas Department of Insurance

Balance Billing Biennial Report

November 2022





Balance Billing Biennial Report

January 2020 - June 2022

by the

Texas Department of Insurance

Submitted November 2022

A handwritten signature in black ink, appearing to read "C. Brown", with a long horizontal flourish extending to the right.

Cassie Brown

Commissioner of Insurance

First posting, November 2022

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This document is available online at tdi.texas.gov/reports.

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Overview

Senate Bill (SB) 1264 from the 2019 Texas Legislature protects consumers with state-regulated health plans from surprise medical bills in emergencies and situations where the consumer didn't select the provider.

SB 1264 creates a mechanism for providers to resolve billing disputes directly with health plans and prohibits balance billing consumers for these services.

TDI must issue a report on the impacts of the legislation each biennium. In addition to the required [biennial report](#), TDI produced a [six-month preliminary report](#) in July 2020 and a [midyear report](#) in July 2021 to help monitor implementation of the new law.

To monitor balance billing practices and produce the required report, TDI collected data quarterly from 43 commercial health plan issuers. Blue Cross and Blue Shield of Texas and Aetna also submitted data for the Texas Teacher Retirement System (TRS) and Employees Retirement System of Texas (ERS).

From January 2020 to June 2022, the Texas Department of Insurance (TDI) received:

- 306,149 requests for arbitration and mediation, of which 262,175 were eligible, through the Independent Dispute Resolution portal.
- Resolved more than \$1.3 billion in medical billing disputes.

This report covers January 2020 through June 2022. Some charts and tables include 2019 data to show changes after the new law took effect. The effective date is shown as a dashed line in the charts.

Background

SB 1264 protects consumers in emergencies and situations where the consumer did not select the provider, such as a 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. 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 providers and mediation for facilities and labs.

Federal legislation - the No Surprises Act - provides balance billing protections for consumers with other types of health coverage for services on or after January 1, 2022. The No Surprises Act supplements state surprise billing laws: it does not supplant them. The No Surprises Act also covers air ambulance for most types of health insurance, regardless of which agency regulates the plan involved.

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

Key data points

Continued growth

Arbitration and mediation requests

Request type	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
Arbitration	8,283	36,656	50,241	62,064	70,456
Mediation	752	3,074	13,593	24,144	36,886

Complaints down

SB 1264's balance billing protections have resulted in sharp declines in consumer complaints. Most of the recent complaints involve confusion about coinsurance amounts or plans not regulated by TDI.

Balance billing complaints

Request type	Consumer	Provider
Jan - June 2019	552	6,461
July - Dec 2019	478	3,275
Jan - June 2020	18	1,774
July - Dec 2020	21	1,502
Jan - June 2021	29	1,157
July - Dec 2021	17	1,324
Jan - June 2022	11	1,461

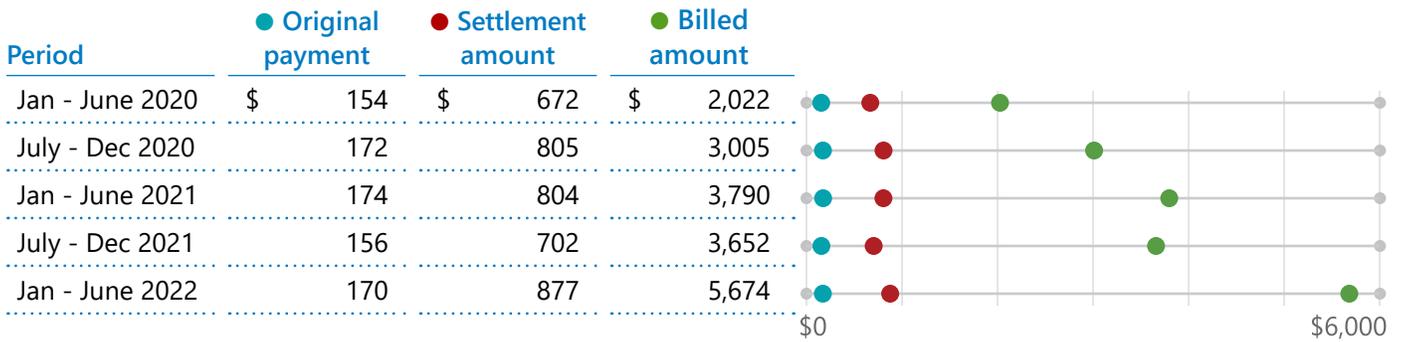
Note: Data is dynamic since complaints may be submitted covering previous fiscal years.

Shifts in outcomes

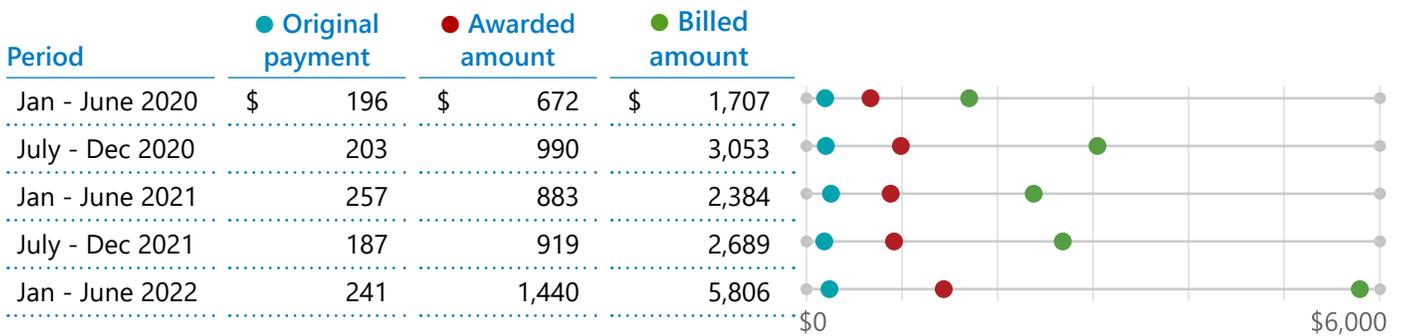
We continue to see changes in the average original billed amounts, payment amounts, and settlement/award amounts. It's unclear if these changes are related to the implementation of the new dispute resolution process, the pandemic's effect on elective services, other causes, or a combination of factors.

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

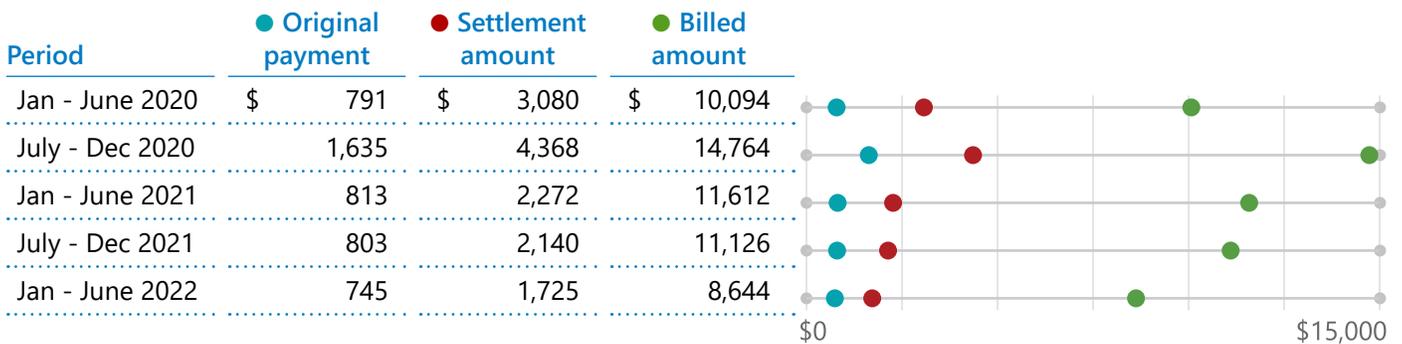
Arbitration requests settled in informal teleconference



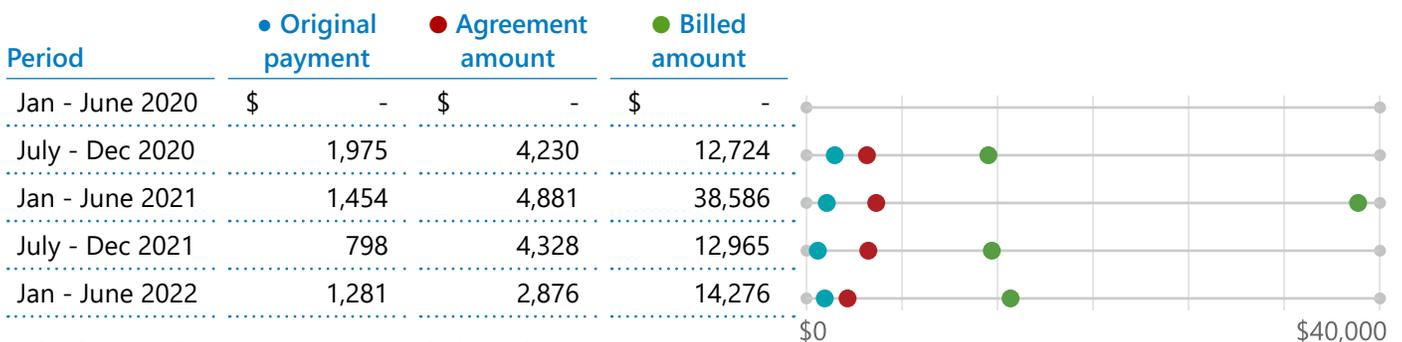
Decided by an arbitrator



Mediation requests settled in informal teleconference



Settled with a mediator



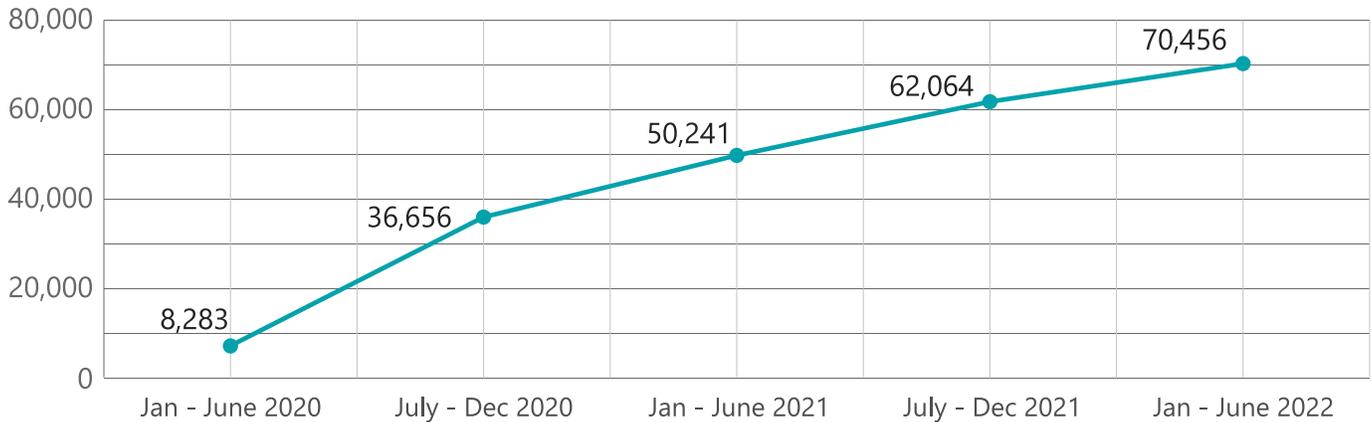
* The first mediation cases were settled in July 2020.

Arbitration

SB 1264 outlines an arbitration process for billing disputes between out-of-network health care providers (not facilities) and health plans. From January 2020 to June 2022, TDI received 227,639 arbitration requests, of which 197,043 requests were eligible for arbitration.

Some requests through June 30, 2022, are still in the dispute resolution process or may be determined to not be eligible for dispute resolution under SB 1264.

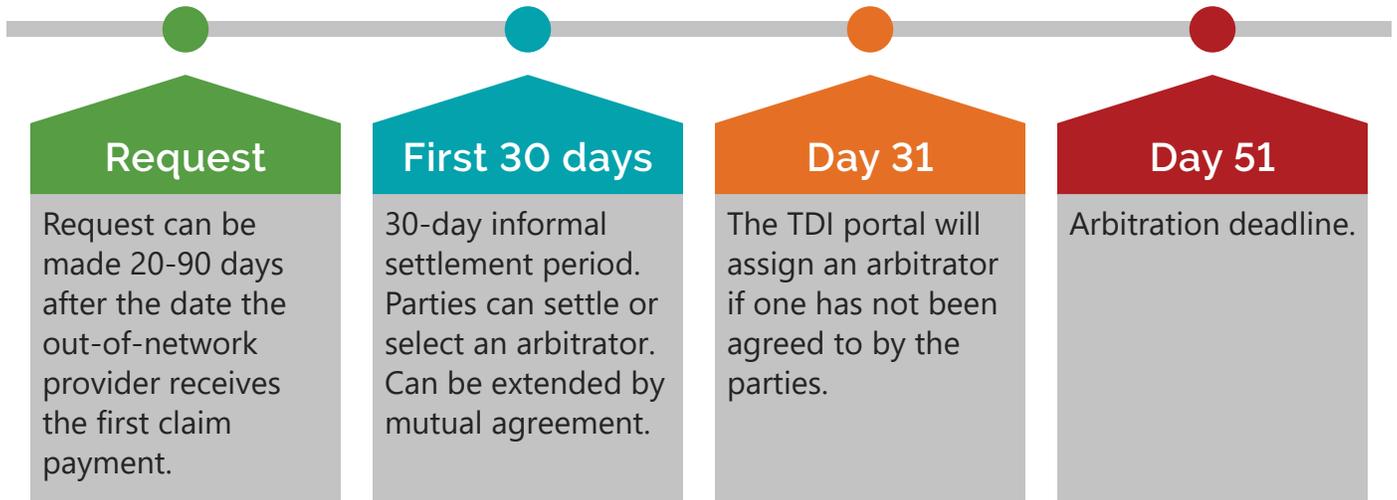
Arbitration requests



Arbitration requests by provider type

Provider	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
Anesthesiologist	276	3,564	8,238	7,066	7,663
Assistant surgeon	52	532	686	1,027	3,354
Cert. registered nurse anesthetist	69	1,107	1,993	4,668	4,871
Emergency physician	7,769	29,463	35,191	43,926	44,486
Hospitalist	5	441	118	78	80
Neonatologist	-	-	29	139	513
Neurologist	18	-	10	8	1,499
Neuromonitor	-	300	321	45	548
Nurse practitioner	-	41	96	108	131
Pathologist	3	195	72	3	196
Physician assistant	-	237	741	1,587	3,137
Surgeon	48	182	169	278	636
Radiologist	-	-	1,749	867	164
Surgical assistant	43	593	759	1,114	2,306
Other	-	1	69	1,150	872
Total	8,283	36,656	50,241	62,064	70,456

Arbitration timeline



Bundled requests

SB 1264 allows providers to include multiple claims on a single arbitration request, if the total amount in dispute is \$5,000 or less and involves a single provider. From January 2020 to June 2022, 23% of arbitration requests involved multiple claims.

Arbitrator fees

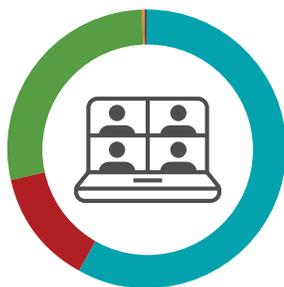
SB 1264 does not limit, or provide authority to set, arbitrator fees. Instead, arbitrators set their own fixed fees per case. There is no fee to submit a request for dispute resolution or take part in informal settlement discussions. Each party pays half the fee once TDI assigns the case to an arbitrator.

Fees as of June 30, 2022

Median fee:	\$1,257
Lowest fee:	\$350
Highest fee:	\$5,000
Total fees paid:	\$75.7 million

Arbitration request resolution

Arbitration request outcomes, January 2020-June 2022



■ Settled in the first 30 days	132,946	58.40%
■ Ineligible or withdrawn	30,596	13.44%
■ Decided by an arbitrator	63,933	28.09%
■ Settled outside arbitration	122	0.05%
■ Pending	42	0.02%

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

Settled in informal teleconference



Period	● Original payment	● Settlement amount	● Billed amount
Jan - June 2020	\$ 154	\$ 672	\$ 2,022
July - Dec 2020	172	805	3,005
Jan - June 2021	174	804	3,790
July - Dec 2021	156	702	3,652
Jan - June 2022	170	877	5,674

Decided by an arbitrator



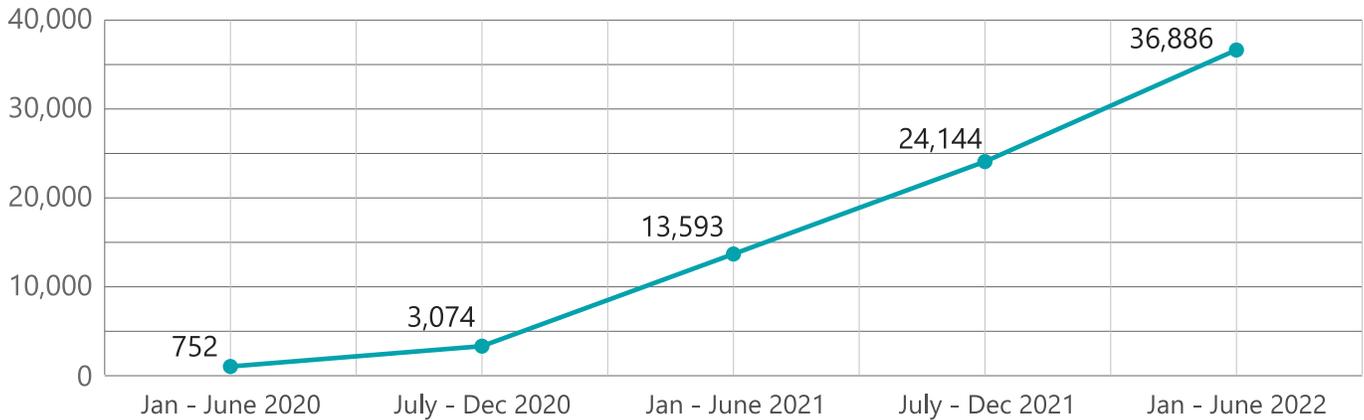
Period	● Original payment	● Awarded amount	● Billed amount
Jan - June 2020	\$ 196	\$ 672	\$ 1,707
July - Dec 2020	203	990	3,053
Jan - June 2021	257	883	2,384
July - Dec 2021	187	919	2,689
Jan - June 2022	241	1,440	5,806

Mediation

SB 1264 outlines a mediation process for billing disputes between out-of-network facilities and health plans. From January 2020 to June 2022, TDI received 78,510 mediation requests, of which 65,132 requests were eligible for mediation.

Some requests received through June 30, 2022, are still in the dispute resolution process or were not eligible for dispute resolution under SB 1264.

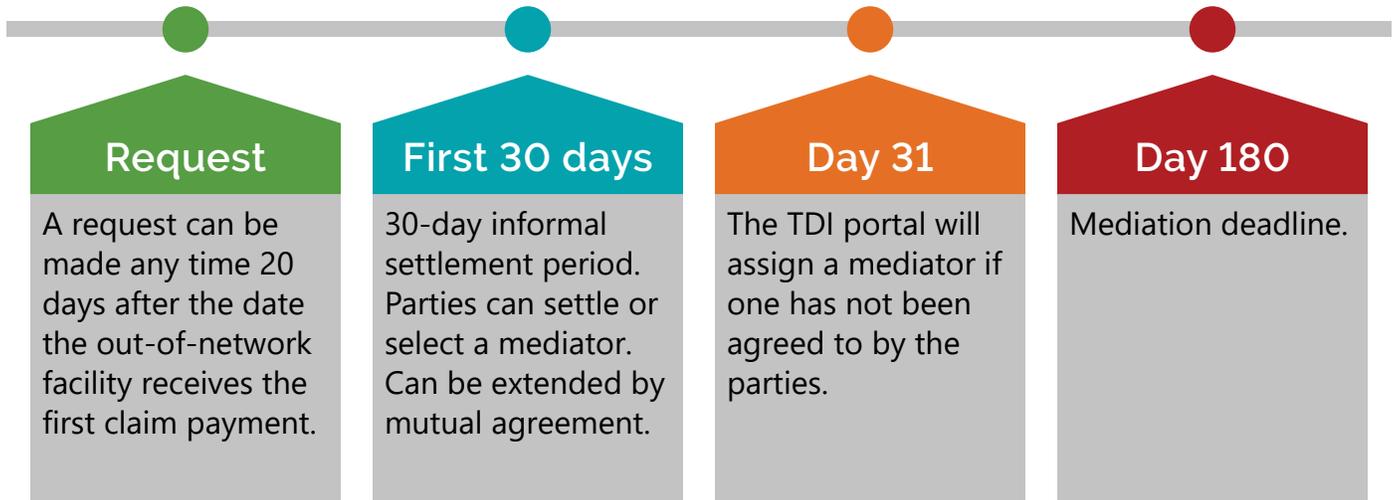
Mediation requests



Mediation requests by service type

Provider	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
Ambulatory surgical center	-	22	23	14	16
Birthing center	-	-	10	7	9
Diagnostic imaging service	-	-	3	8	4
Freestanding ER	390	1,871	10,322	20,025	30,329
Hospital	362	1,181	3,208	4,090	6,523
Lab	-	-	27	-	5
Total	752	3,074	13,593	24,144	36,886

Mediation timeline



Bundled requests

TDI rules allow parties to a mediation to combine claims by mutual agreement for a single facility into one request. From January 2020 to June 2022, out of 78,510 mediation requests, only 997 agreements were reached that 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.

Fees as of June 30, 2022

Median fee:	\$800
Lowest fee:	\$80
Highest fee:	\$5,275
Total fees paid:	\$3.4 million

Mediation request resolution

Mediation request outcomes, January 2020-June 2022



■ Settled in the first 30 days	60,118	76.45%
■ Ineligible or withdrawn	13,378	17.04%
■ Agreement reached after mediation	3,141	4.00%
■ Not settled at mediation	913	1.16%
■ Settled outside mediation	606	0.77%
■ Pending	454	0.58%

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

Settled in informal teleconference



Period	● Original payment	● Settlement amount	● Billed amount
Jan - June 2020	\$ 791	\$ 3,080	\$ 10,094
July - Dec 2020	1,635	4,368	14,764
Jan - June 2021	813	2,272	11,612
July - Dec 2021	803	2,140	11,126
Jan - June 2022	745	1,725	8,644

Settled with a mediator



Period	● Original payment	● Agreement amount	● Billed amount
Jan - June 2020*	\$ -	\$ -	\$ -
July - Dec 2020	1,975	4,230	12,724
Jan - June 2021	1,454	4,881	38,586
July - Dec 2021	798	4,328	12,965
Jan - June 2022	1,281	2,876	14,276

* The first mediation cases were settled in July 2020.

Health plan data

The data collected from health plans includes information by provider and service types.

- Provider types
 - Hospital facility, except freestanding ER (Hospital)
 - Freestanding emergency room (ER)
 - Anesthesiologist
 - Emergency (ER) doctor
 - Pathologist
 - Radiologist
 - Assistant surgeon
 - Surgical assistant
 - Air ambulance
 - Ground ambulance
- Service types:
 - Diagnostic imaging (Diagnostic)
 - Emergency
 - Facility-based (Facility)
 - Lab services (Lab)

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 ERs and ground ambulances.
- Health plans reimburse in-network providers more of their billed amounts than out-of-network providers.

Network providers

Because health plans contract with many of the same providers, combining the number 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 2020 and ending with the second quarter of 2022. 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 by service type

Request type	Diagnostic		Emergency		Facility		Lab	
	2019	2022*	2019	2022*	2019	2022*	2019	2022*
Hospital	1,078	1,519	689	1,003	957	1,255	1,055	1,333
Freestanding ER	3	6	26	31	3	88	3	6
Anesthesiologist	2,422	1,916	2,396	2,188	3,241	3,391	610	989
ER doctor	162	365	1,427	1,608	1,347	1,205	160	347
Pathologist	537	350	110	194	547	419	537	510
Radiologist	1,376	1,568	985	930	1,191	1,075	890	1,125
Asst. surgeon	-	-	-	-	822	982	-	-
Surgical asst.	17	19	10	12	106	62	2	4
Air ambulance	1	2	13	18	2	2	1	2
Ground ambulance	5	9	32	34	7	7	5	9

* January 2020 - June 2022

Network terminations

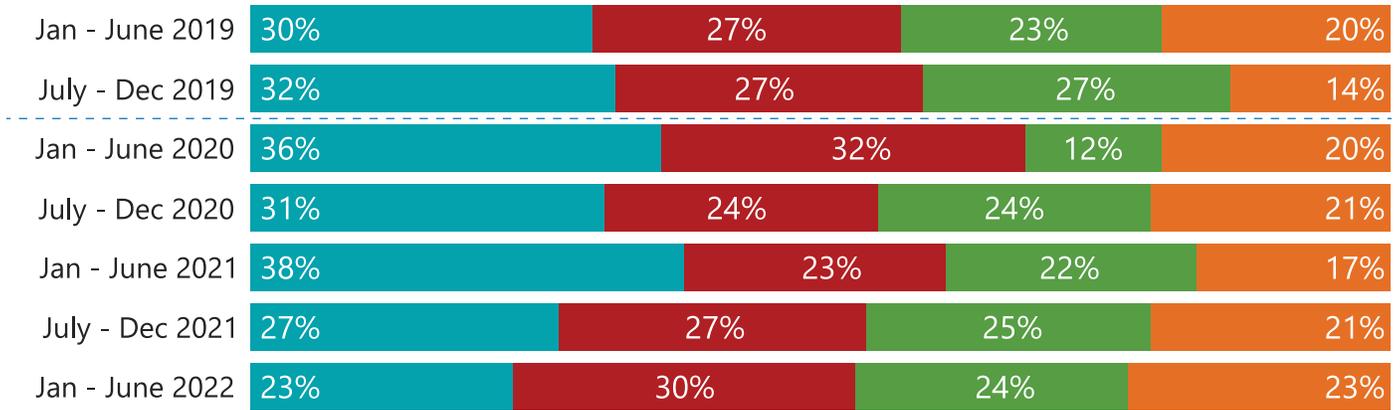
A network termination is when a medical provider leaves a health plan’s network. This can be initiated by a plan administrator, the health plan, or the provider. Terminations are shown in aggregate, but it is possible that a single provider experienced a termination from more than one health plan during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

Terminations by initiated type



Provider	● Administrators	▲ Health plan insurers	■ Providers
2019 Q1	638	16,813	5,772
2019 Q2	1,604	32,474	15,606
2019 Q3	1,199	4,991	12,753
2019 Q4	470	7,778	11,872
2020 Q1	545	3,590	17,842
2020 Q2	218	1,949	13,592
2020 Q3	20,028	24,381	6,681
2020 Q4	27,327	31,499	12,090
2021 Q1	7,592	10,915	8,891
2021 Q2	7,957	10,826	7,101
2021 Q3	31,065	35,366	8,176
2021 Q4	15,699	21,541	9,374
2022 Q1	8,386	10,138	5,659
2022 Q2	9,621	12,154	3,651

Provider terminations



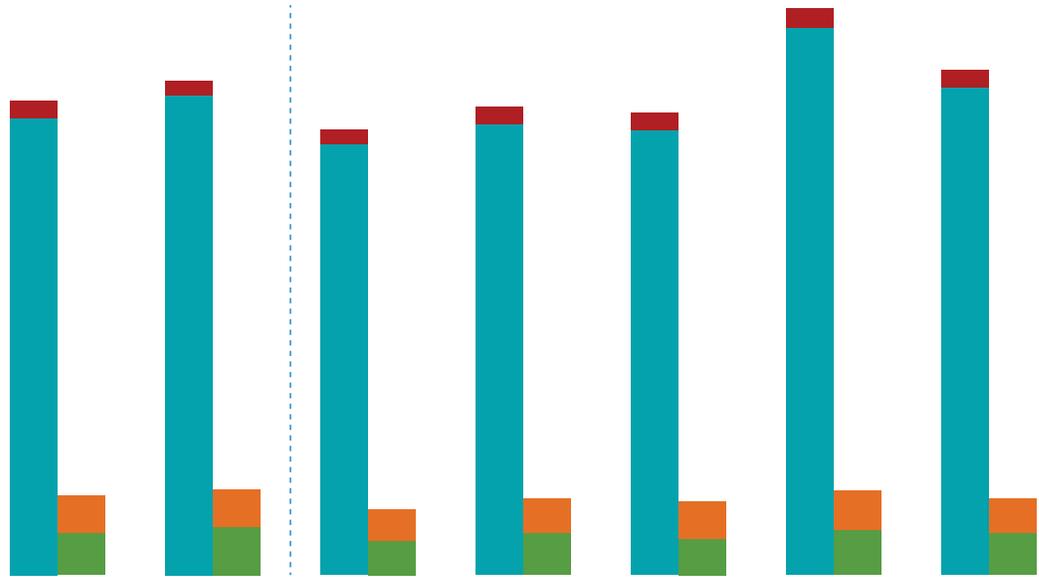
Period	■ Diagnostic	■ Emergency	■ Facility	■ Lab
Jan - June 2019	21,536	19,888	17,121	14,362
July - Dec 2019	12,583	10,382	10,581	5,517
Jan - June 2020	13,655	12,202	4,567	7,312
July - Dec 2020	37,644	28,969	29,040	26,353
Jan - June 2021	20,391	12,261	11,660	8,970
July - Dec 2021	32,346	33,055	29,740	26,080
Jan - June 2022	11,647	14,664	11,994	11,304

Billing for medical services

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.

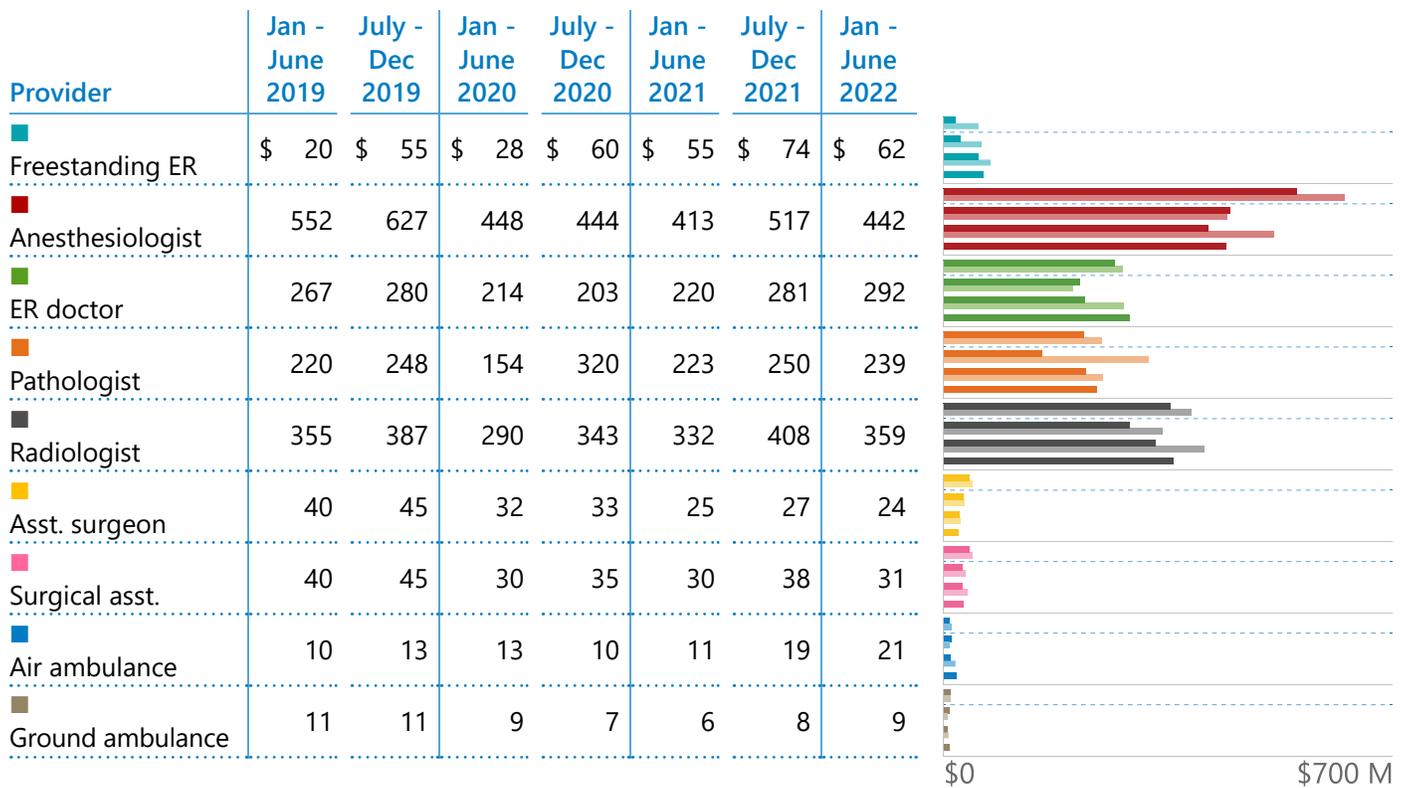
In the following charts, higher amounts billed by in-network providers vs. out-of-network providers may indicate stronger network participation by some types of providers.

Hospital billed amounts in billions

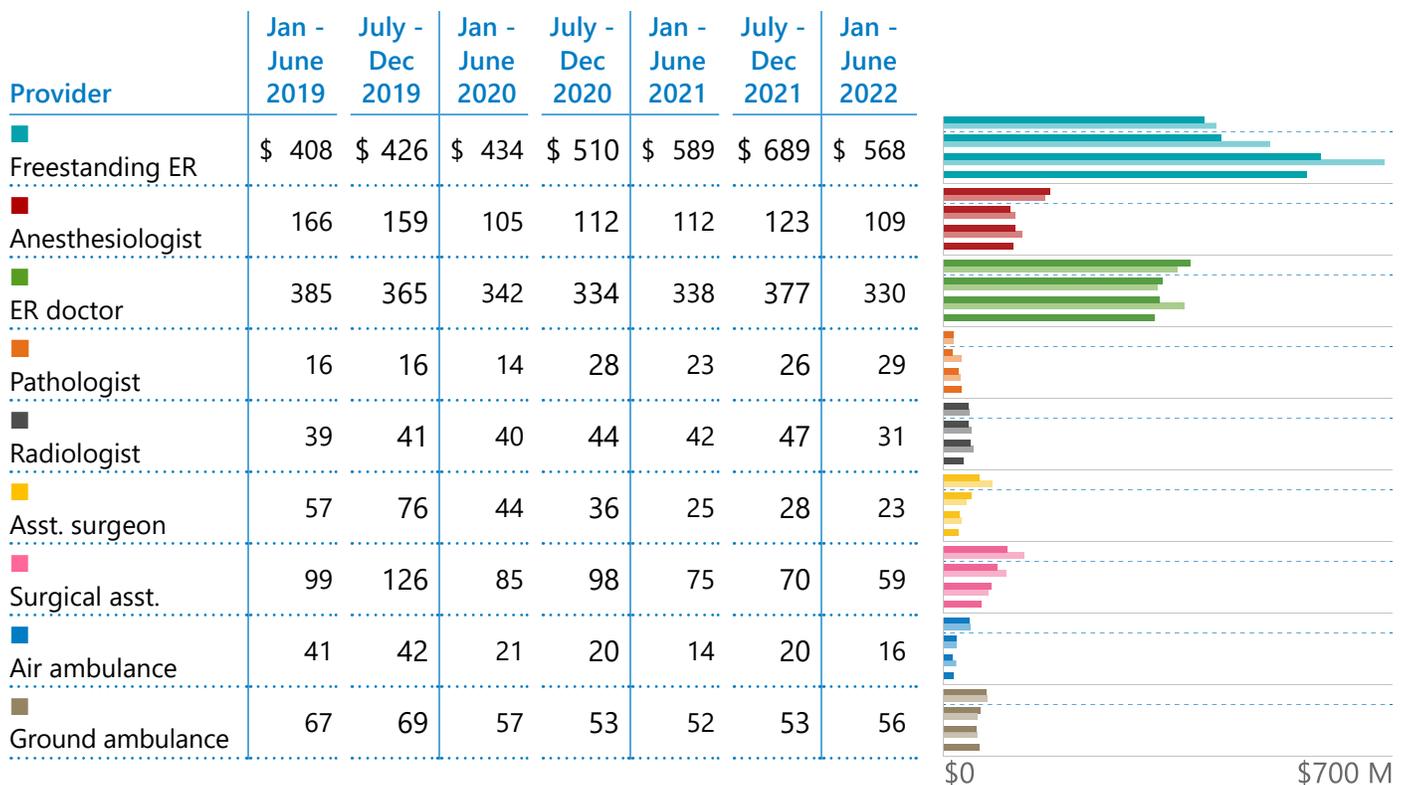


Provider	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
■ Hospitals - in	\$ 16.1	\$ 16.9	\$ 15.2	\$ 15.9	\$ 15.7	\$ 19.3	\$ 17.2
■ Hospitals - out	0.6	0.5	0.5	0.6	0.6	0.7	0.6
■ Other - in	1.5	1.7	1.2	1.5	1.3	1.6	1.5
■ Other - out	1.3	1.9	1.1	1.2	1.3	1.4	1.2

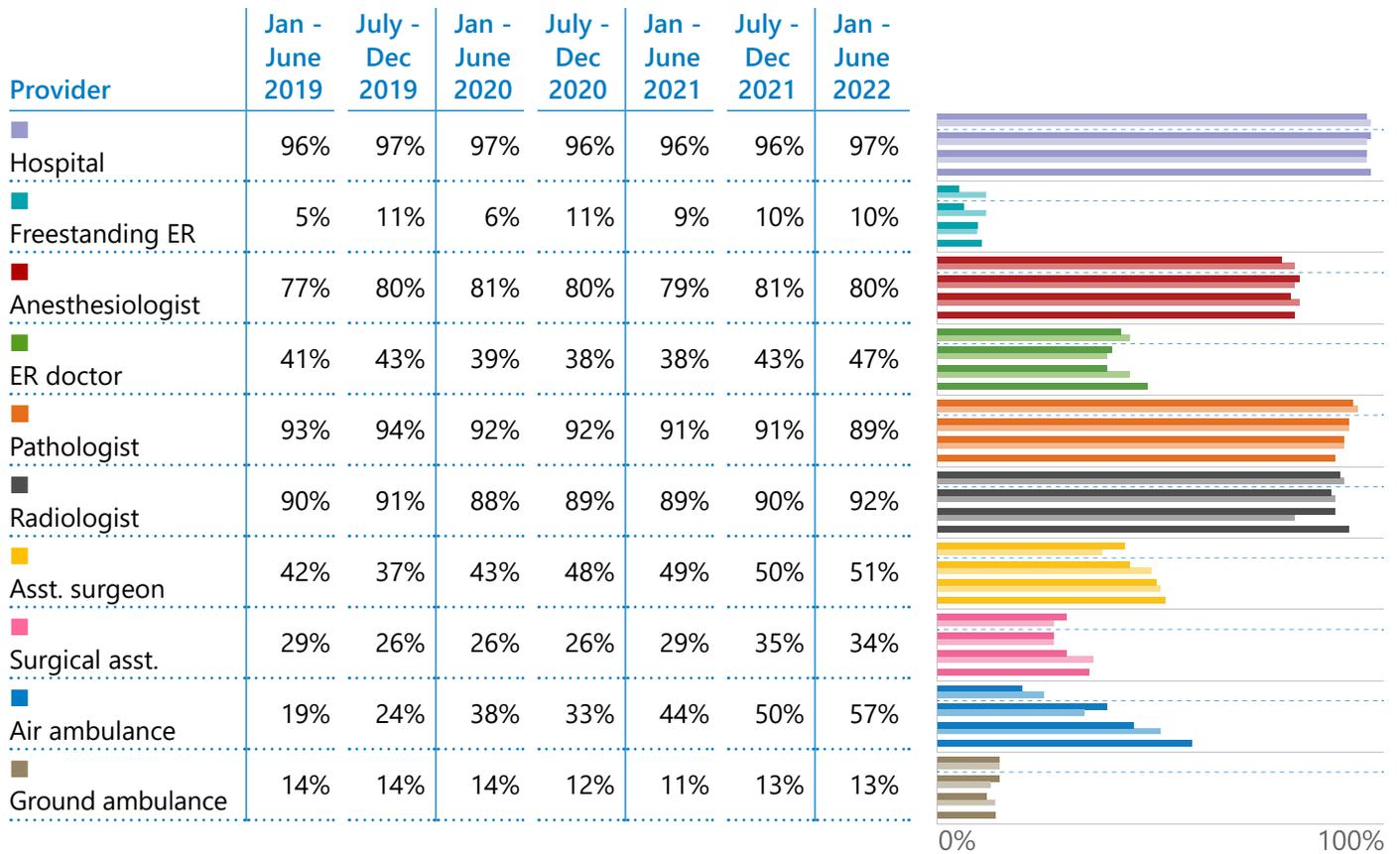
In-network billed amounts in millions



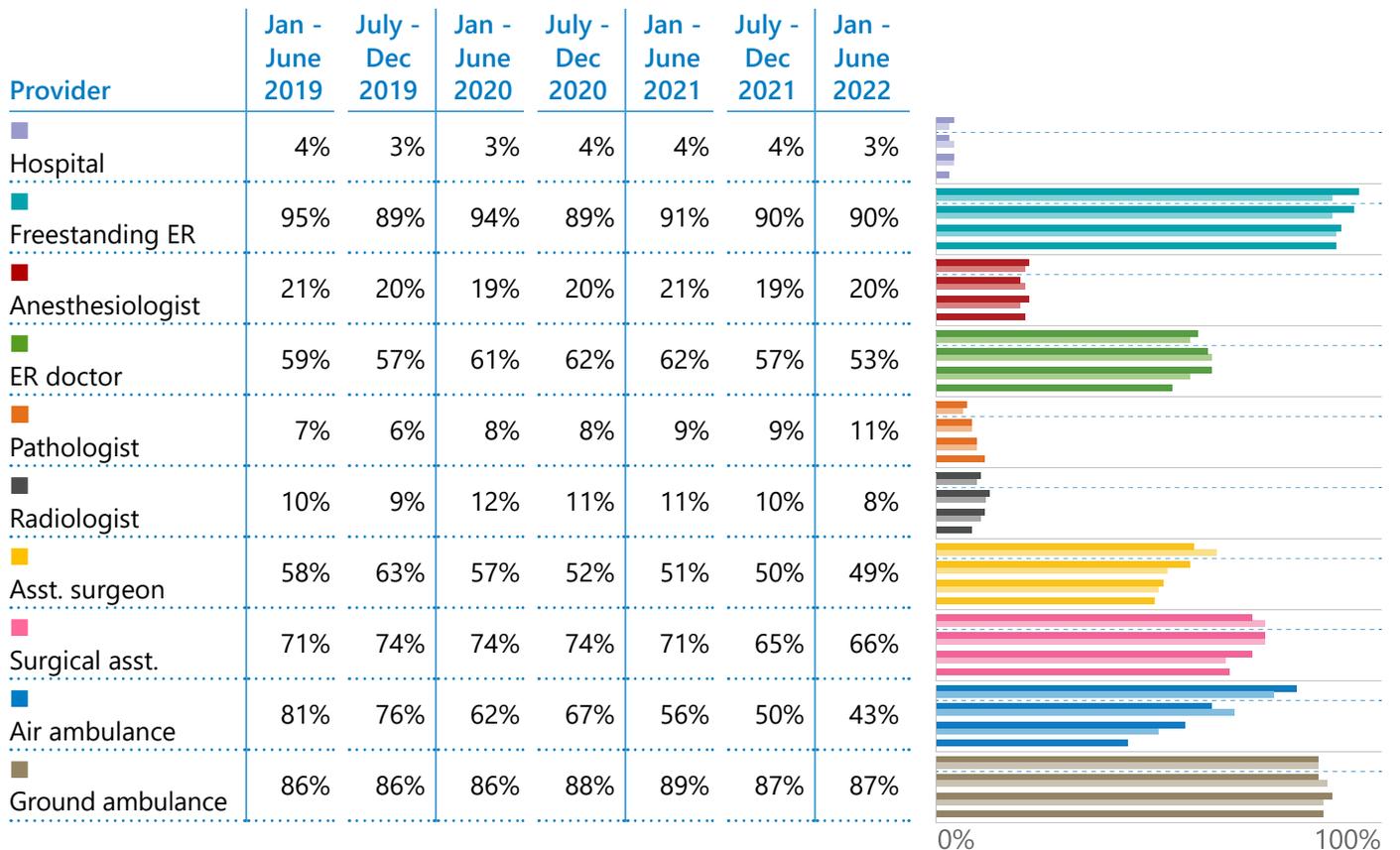
Out-of-network billed amounts in millions



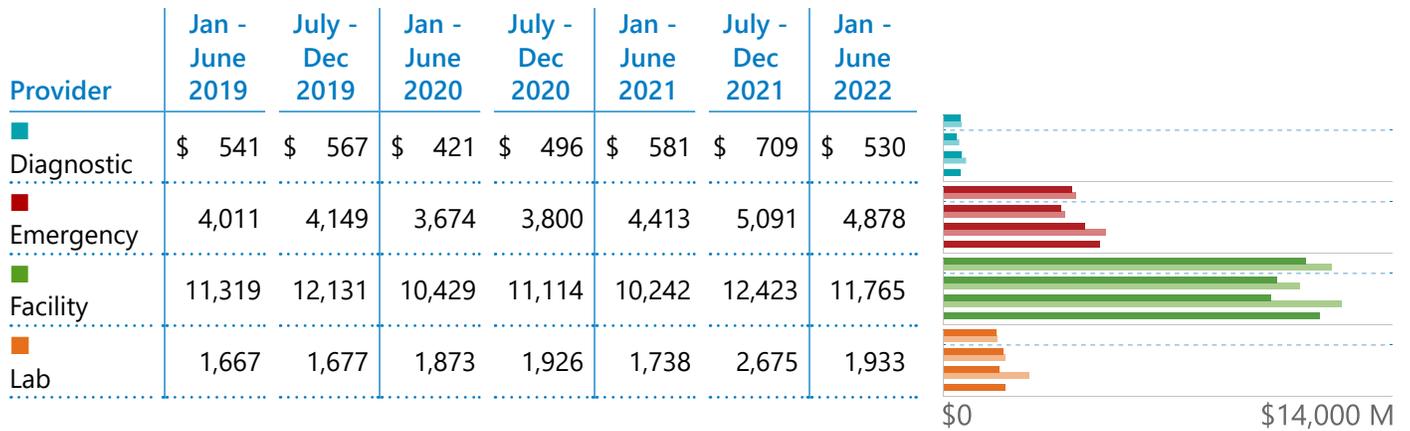
Percentage of providers billed as in-network



Percentage of providers billed as out-of-network



In-network billed amounts by service type in millions



Out-of-network billed amounts by service type in millions

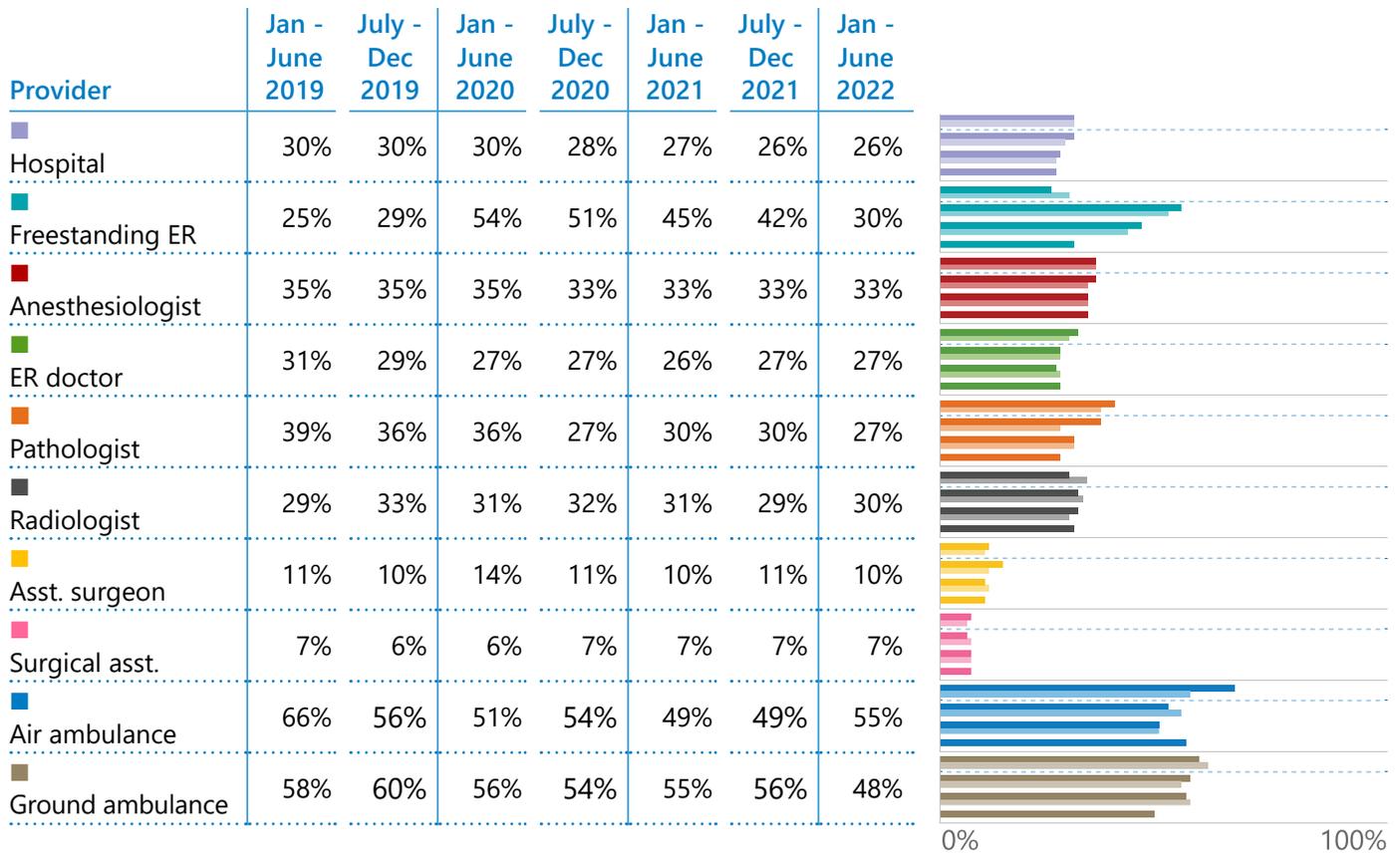


Payment for medical services

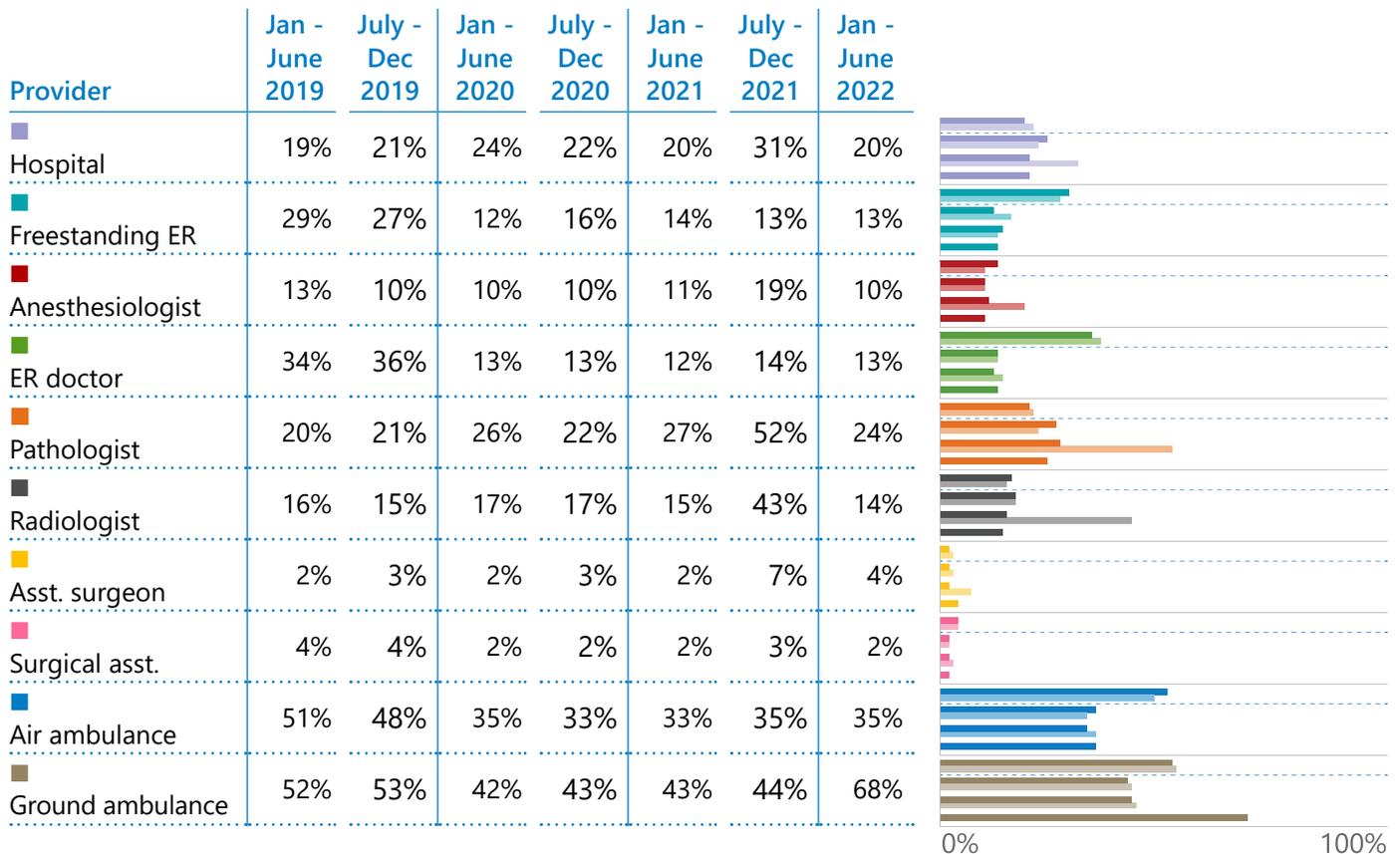
Most of the billing and payment data was collected according to the quarter in which the transaction occurred. A bill that is received might be paid that same quarter or it might be paid in a subsequent quarter. This report does not attempt to “track” bills to their respective payments. Instead, health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

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

In-network average percentage of billed amount paid



Out-of-network average percentage of billed amount paid

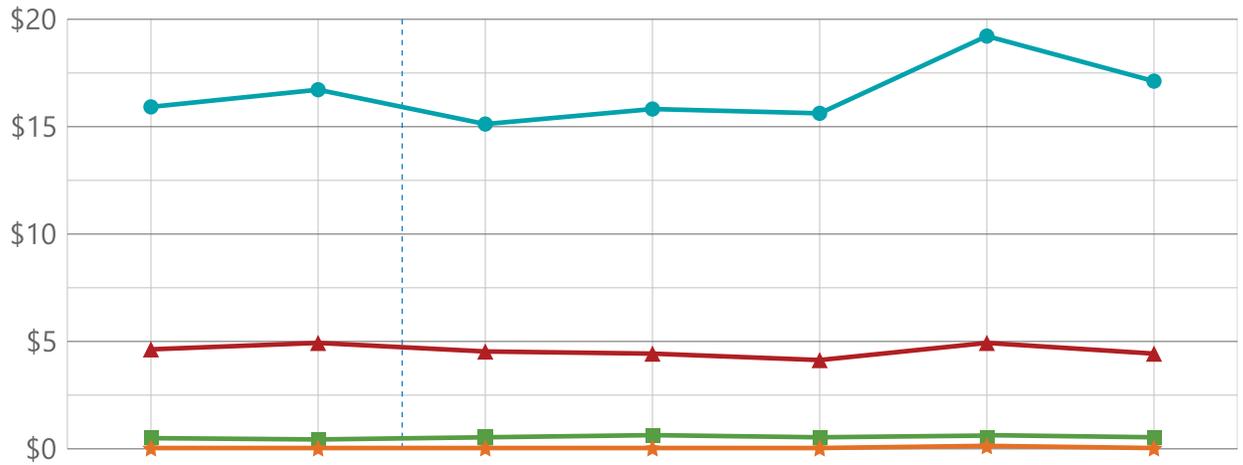


2019 billed amounts by provider type in millions

Provider type	In-network billed	In-network paid	Out-of-network billed	Out-of-network paid
Hospital	\$ 32,845.5	\$ 9,747.1	\$ 1,143.8	\$ 230.2
Freestanding ER	73.5	18.6	833.4	231.8
Anesthesiologist	1,176.9	412.2	323.8	37.3
ER doctor	545.2	164.4	748.1	261.7
Pathologist	466.4	174.0	31.9	6.5
Radiologist	741.2	233.1	79.2	12.2
Asst. surgeon	84.9	8.6	130.9	2.6
Surgical asst.	84.8	5.5	224.5	8.9
Air ambulance	22.5	13.6	82.1	40.5
Ground ambulance	21.3	12.7	135.4	71.1

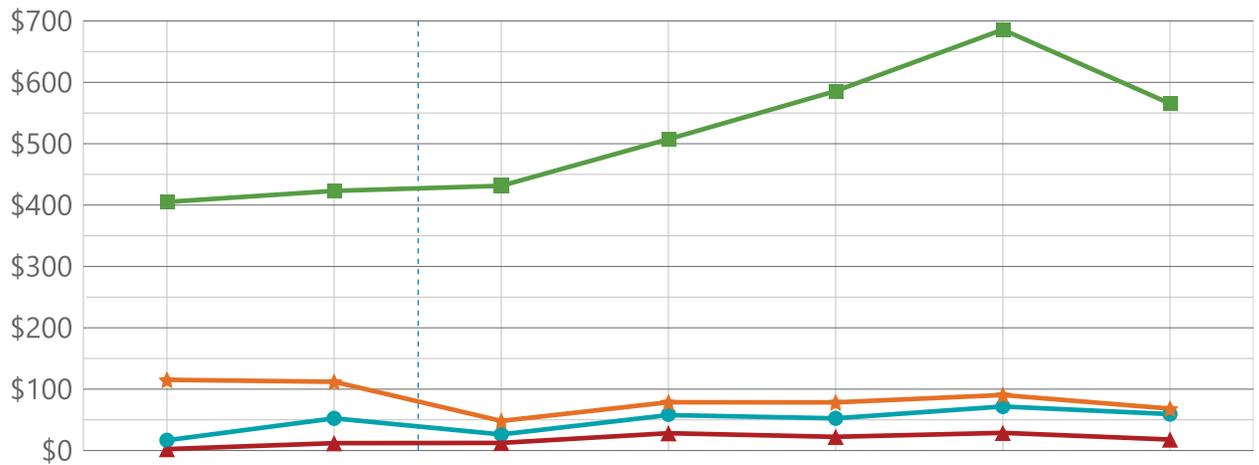
Billed vs. paid amounts for in-network and out-of-network providers

Hospitals in billions



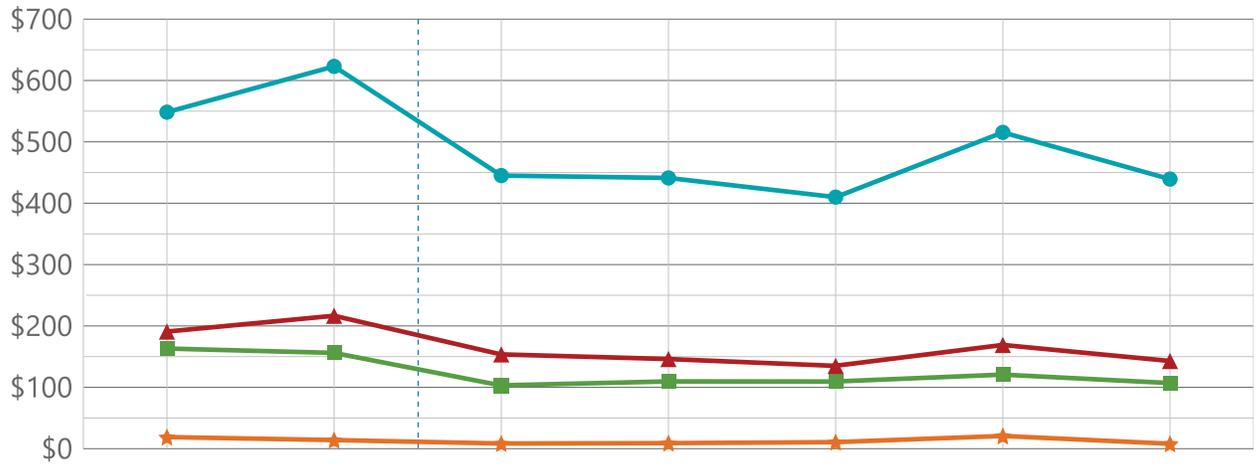
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 16.0	\$ 16.8	\$ 15.2	\$ 15.9	\$ 15.7	\$ 19.3	\$ 17.2
▲ Paid - in	4.7	5.0	4.6	4.5	4.2	5.0	4.5
■ Billed - out	0.6	0.5	0.6	0.7	0.6	0.7	0.6
★ Paid - out	0.1	0.1	0.1	0.1	0.1	0.2	0.1

Freestanding ERs in millions



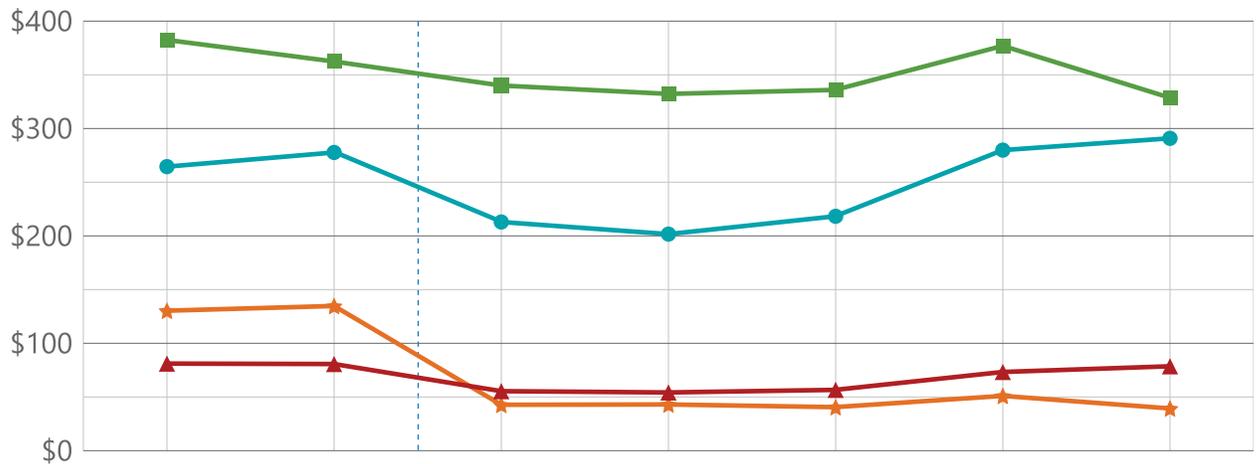
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 18.9	\$ 54.7	\$ 28.4	\$ 60.0	\$ 54.7	\$ 74.0	\$ 61.6
▲ Paid - in	4.5	14.2	14.6	30.4	24.5	31.0	20.1
■ Billed - out	407.7	425.7	434.0	510.1	588.6	688.8	568.2
★ Paid - out	117.5	114.3	50.4	80.9	80.7	92.7	70.5

Anesthesiologists in millions



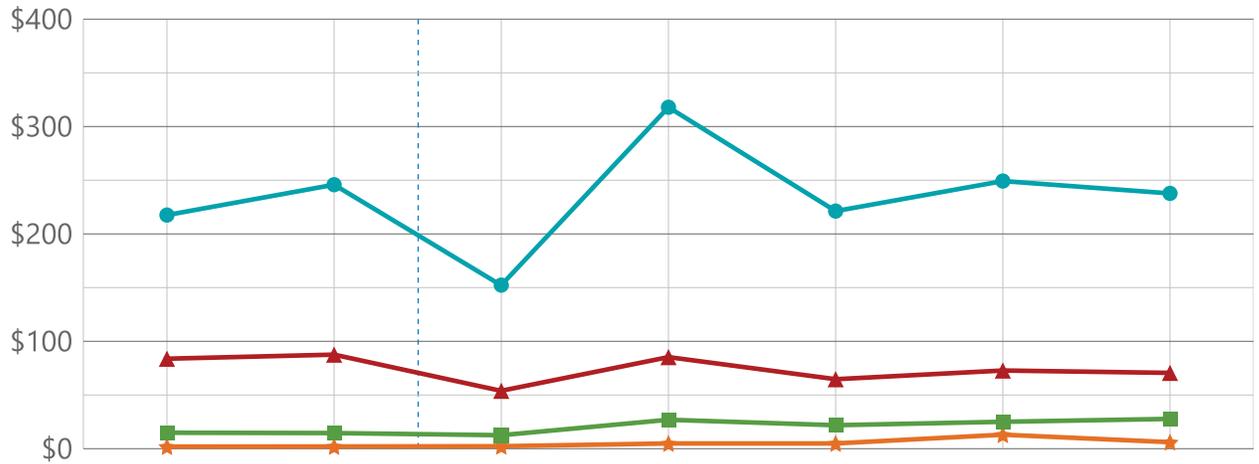
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 551.1	\$ 625.8	\$ 447.7	\$ 443.8	\$ 412.5	\$ 518.1	\$ 441.9
▲ Paid - in	193.2	219.0	156.0	148.4	137.3	171.4	145.2
■ Billed - out	165.5	158.4	105.4	111.9	111.7	123.0	109.2
★ Paid - out	21.1	16.2	10.6	11.2	12.8	22.9	10.2

ER doctors in millions



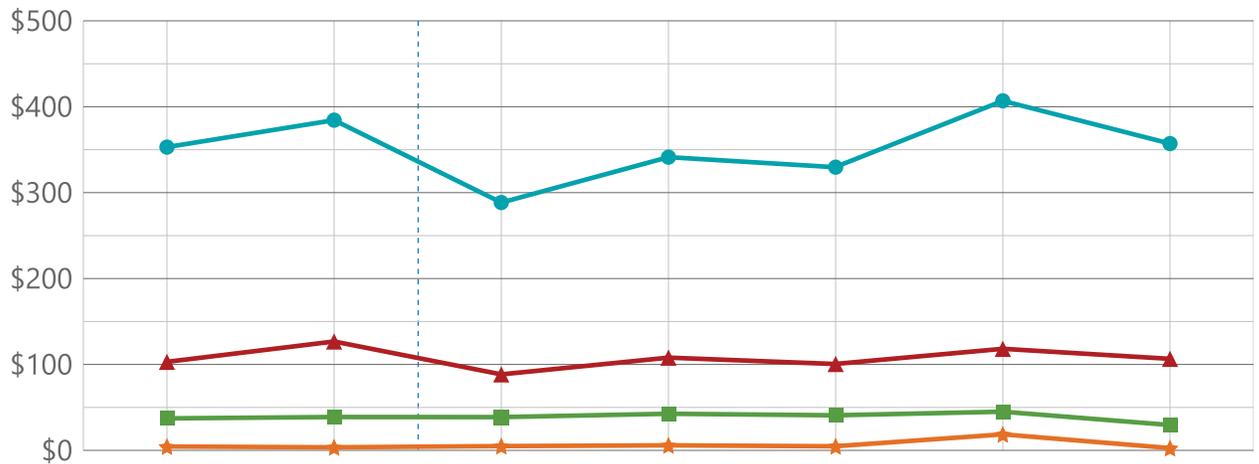
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 266.0	\$ 279.2	\$ 214.4	\$ 203.1	\$ 219.7	\$ 281.4	\$ 292.4
▲ Paid - in	82.4	82.0	56.7	55.5	57.9	74.6	79.9
■ Billed - out	384.1	364.0	341.6	333.8	337.5	378.6	330.2
★ Paid - out	131.7	136.1	44.0	44.3	41.8	52.3	40.6

Pathologists in millions



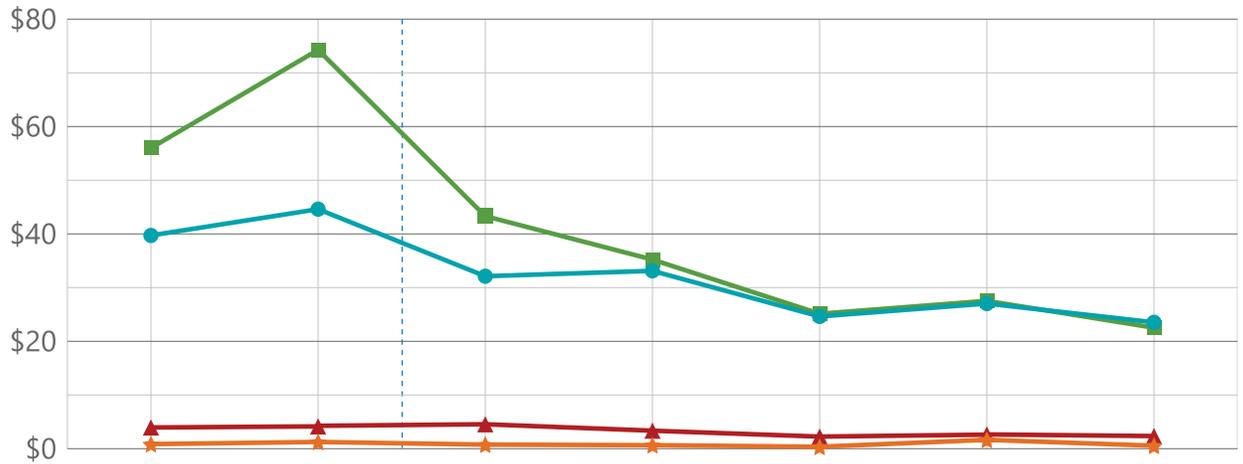
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 219.0	\$ 247.3	\$ 153.7	\$ 319.5	\$ 222.7	\$ 250.7	\$ 239.2
▲ Paid - in	85.1	88.9	55.2	86.6	66.0	74.1	71.9
■ Billed - out	16.1	15.8	13.8	28.2	23.1	26.3	29.0
★ Paid - out	3.2	3.3	3.5	6.1	6.1	14.3	7.3

Radiologists in millions



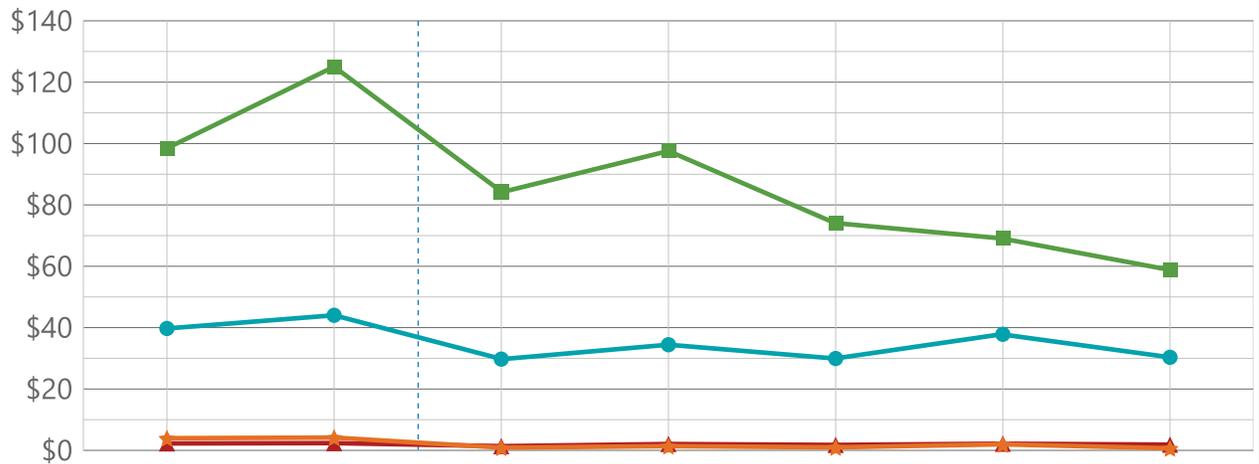
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 354.9	\$ 386.3	\$ 290.3	\$ 343.2	\$ 331.5	\$ 408.8	\$ 359.0
▲ Paid - in	104.7	128.4	90.1	109.6	102.2	119.9	108.2
■ Billed - out	38.8	40.4	40.3	44.2	42.4	46.6	31.1
★ Paid - out	6.0	5.1	6.5	7.4	6.3	20.2	4.2

Assistant surgeons in millions



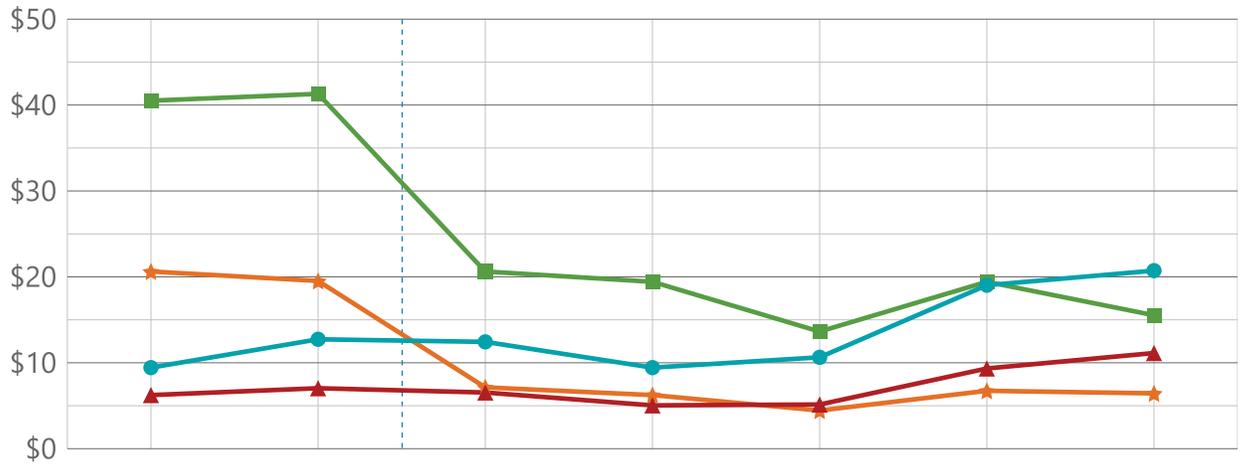
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 40.0	\$ 44.9	\$ 32.4	\$ 33.4	\$ 24.9	\$ 27.3	\$ 23.8
▲ Paid - in	4.2	4.4	4.8	3.6	2.5	2.9	2.6
■ Billed - out	56.3	74.6	43.6	35.5	25.4	27.8	22.8
★ Paid - out	1.1	1.5	1.0	0.9	0.6	1.9	0.8

Surgical assistants in millions



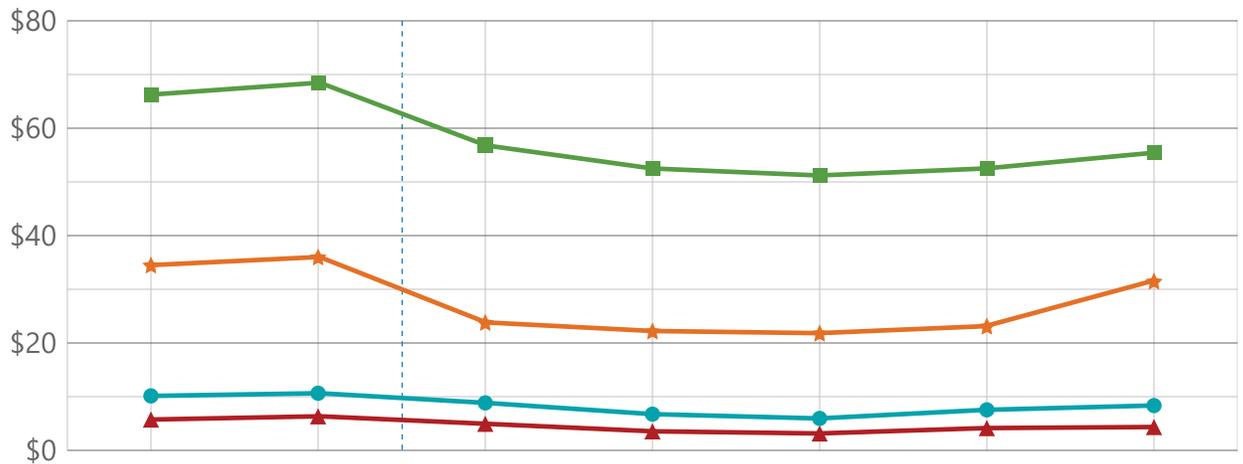
Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 40.2	\$ 44.5	\$ 30.2	\$ 34.9	\$ 30.4	\$ 38.3	\$ 30.8
▲ Paid - in	2.7	2.8	1.8	2.5	2.2	2.6	2.3
■ Billed - out	99.0	125.6	84.7	98.1	74.6	69.6	59.3
★ Paid - out	4.4	4.6	1.3	1.8	1.4	2.4	1.1

Air ambulance in millions



Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 9.6	\$ 12.9	\$ 12.6	\$ 9.6	\$ 10.8	\$ 19.2	\$ 20.9
▲ Paid - in	6.4	7.2	6.7	5.2	5.3	9.5	11.3
■ Billed - out	40.7	41.5	20.8	19.6	13.8	19.6	15.7
★ Paid - out	20.8	19.7	7.3	6.4	4.6	6.9	6.6

Ground ambulance in millions



Period	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
● Billed - in	\$ 10.4	\$ 10.9	\$ 9.1	\$ 7.0	\$ 6.2	\$ 7.8	\$ 8.6
▲ Paid - in	6.0	6.6	5.2	3.8	3.4	4.4	4.6
■ Billed - out	66.6	68.8	57.1	52.8	51.5	52.8	55.7
★ Paid - out	34.8	36.3	24.1	22.5	22.1	23.4	31.8



Texas Department of Insurance
Balance Billing Biennial Report

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