

Senate Bill 1264: Six-month preliminary report

Senate Bill 1264 protects consumers who have certain state-regulated health plans from surprise medical bills. The new protections apply to bills for medical services received on or after January 1, 2020. While the data is limited and will change as cases are completed, the Texas Department of Insurance (TDI) offers this preliminary report as an early indication of how the system is working.

As of June 30, 2020, TDI had received more than 9,000 requests for dispute resolution under the new process. Six months into the implementation of SB 1264, provider complaints about billing disputes have decreased more than 70% from the same period a year ago, and consumer complaints about balance billing have fallen by more than 95%.

SB 1264 requires the Texas Department of Insurance to issue a report on the impacts of the legislation each biennium. The first such report is due December 1, 2020, and we are conducting a data call to collect more detailed information for that report.

Implementation

SB 1264 applies to insurance 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 – mediation for facilities and labs and arbitration for physicians and other similar providers.

To prepare for implementation of the new law, TDI:

- Developed rules and a [waiver process](#) with a form for exemptions to the law.
- Created an [online portal](#) for mediation and arbitration requests.
- Developed a pool of mediators and arbitrators and provided training for them. TDI studied other states and to help establish the program.
- Selected a [benchmarking database](#) for arbitration cases that met the narrow requirements in the statute.
- Scheduled numerous stakeholder meetings and webinars, attended provider conferences and meetings, and sent out a series of emails with information to help health plans and providers prepare for the implementation.

Early trends

Because SB 1264 applies to bills for services provided on or after January 1, TDI didn't receive the first arbitration request until February 12, 2020, but requests have risen each month. The largest number of requests by far was received in June, and most of these are still in process. In addition, the ban on elective surgeries due to the COVID-19 pandemic may have reduced the number of requests for mediation and arbitration that TDI would have otherwise received for out-of-network providers at in-network facilities. For these reasons, we are cautious about identifying early trends. However, there are some notable data points.

- In the first six months, about 85% of dispute resolution requests are coming from three large physician staffing and billing firms.
- TDI has received 19 consumer complaints about balance billing in the first six months of 2020, down from 546 for the same period in 2019.
- Provider complaints have decreased more than 70% this year. Before SB 1264, consumers could request mediation for certain surprise bills, but the only recourse available through TDI for providers seeking to resolve billing disputes was to file a complaint. TDI received 1,770 complaints from health care providers and billing services in the first six months of 2020, down from 6,461 for the same period in 2019.
- We're seeing a higher proportion of requests related to emergency services than in the previous mediation system. The elective surgery ban may be a factor in this difference.

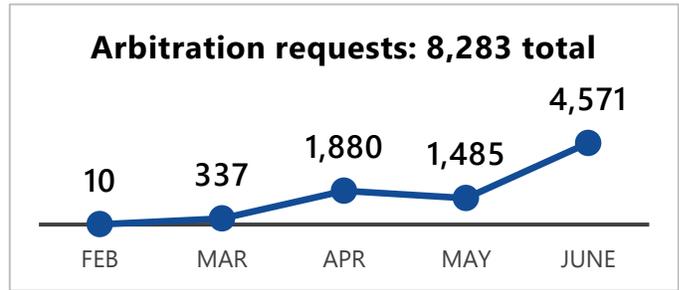
Specialty	SB 1264 submissions through June	2019 mediations under prior system
Emergency physicians	85%	10%
Anesthesiologists	4%	33%
Assistant surgeons	1%	0.6%

- The final payment agreed to during informal settlement discussions appears similar to those decided by arbitrators based on a look at requests involving a single claim for emergency physician services. TDI does not have information on the services, or CPT codes, included in the requests for dispute resolution so we cannot compare how the decisions differ on specific services.

Requests with single claim for ER physician	Informal settlement	Decided by arbitrator
Original bill	\$1,497	\$1,699
Original payment	\$144	\$229
Final amount	\$612	\$688

Arbitration

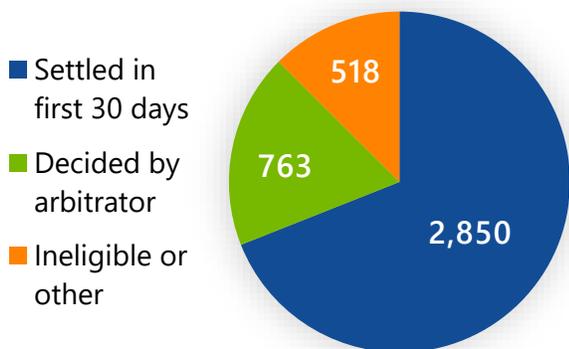
SB 1264 outlines an arbitration process or billing disputes between out-of-network health care providers (not facilities) and health plans. It outlines 10 factors to be considered by the arbitrator, and it sets aggressive timelines to conclude cases.



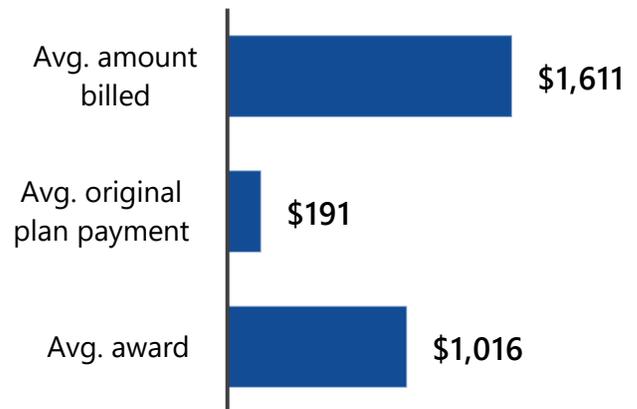
Arbitration timeline

- **Request:** A request for arbitration can be made between 20 and 90 days after the date the out-of-network provider receives the first claim payment.
- **First 30 days:** Once the request has been submitted, there is a 30-day informal settlement period. During this time, the provider and health plan can reach a settlement or select an arbitrator. This period can be extended by mutual agreement of the parties.
- **Day 31:** The TDI portal will assign an arbitrator if one has not been agreed to by the parties.
- **Day 51:** Deadline for arbitrator’s decision.

Arbitration request resolution

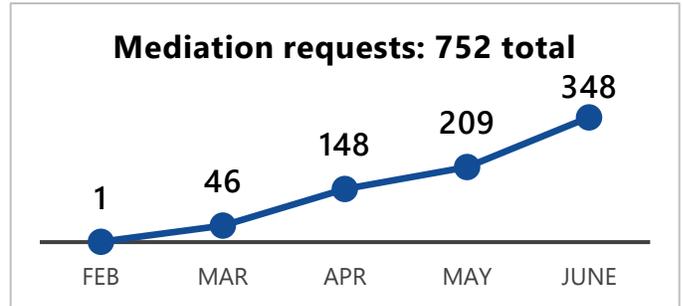


Requests settled through arbitration through June 30



Mediation

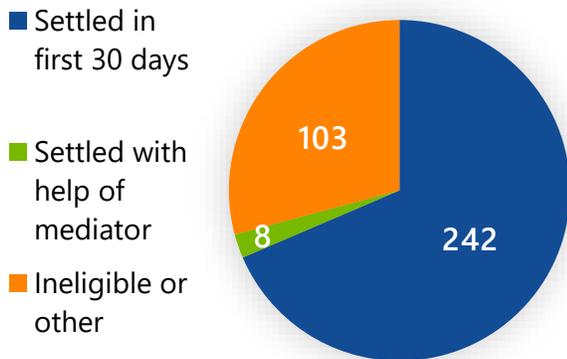
SB 1264 outlines a mediation process for billing disputes between out-of-network facilities and health plans. To date, TDI has received far fewer requests for mediation than for arbitration. At this point the reasons for the difference are unclear. However, unlike arbitration, there is no deadline under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



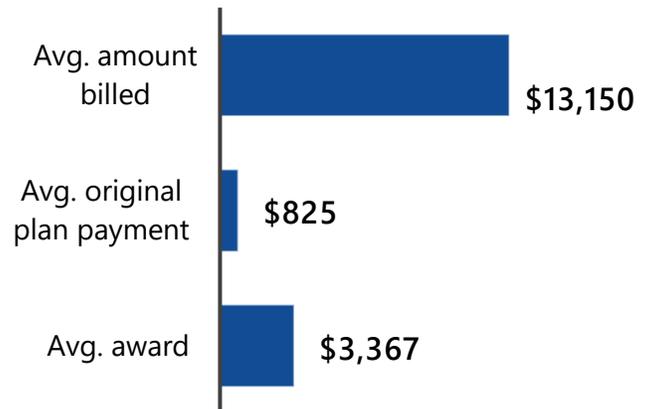
Mediation timeline

- **Request:** A request can be made any time 20 days after the date the out-of-network facility receives the first claim payment.
- **First 30 days:** Once the request has been submitted, there is a 30-day informal settlement period. During this time, the facility and health plan can reach a settlement or select a mediator. This period can be extended by mutual agreement of the parties.
- **Day 31:** The TDI portal will assign a mediator if one has not been agreed to by the parties.
- **Day 180:** Deadline for mediation to have taken place.

Mediation request resolution



Requests settled with help of mediator through June 30

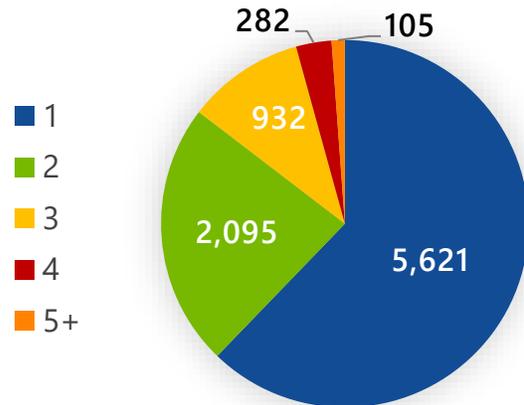


Other issues of note

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. TDI rules allow parties to a mediation to combine claims, regardless of the amount, for a single facility into one request. For the first six months of 2020, 38% of requests have involved multiple claims.

Claims per submission



Arbitrator and mediator fees

Fees	Mediation	Arbitration
Median fee	\$750	\$1,000
Lowest fee	\$80	\$270
Highest fee	\$3,000	\$3,200
Total fees paid	\$122,983	\$1,967,585

SB 1264 does not limit the fees charged by mediators or arbitrators. Instead, arbitrators and 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.

The parties also may strike up to two mediators or arbitrators from the list of five options provided after a request is submitted.

Requests under previous system

For services provided before January 1, 2020, consumers could seek alternative dispute resolution (only in the form of mediation) for certain balance bills over \$500. TDI continues to process mediation requests received through this system.

Mediation requests under previous system

