

Texas Department of Insurance

Balance Billing Biennial Report

November 2024





Balance Billing Biennial Report

by the

Texas Department of Insurance

Submitted November 2024

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

Contents

Background and report overview	3
Background	5
State legislation.....	5
Federal legislation.....	5
Report overview.....	6
Independent dispute resolution portal requests and outcomes	7
Arbitration and mediation requests	9
Portal requests.....	9
Bundled requests.....	10
Fees.....	11
Timelines.....	11
Portal request outcomes	11
Average request resolution.....	12
Health plan data	13
Health plan data overview.....	15
Findings.....	15
Network providers and terminations	16
Network providers	16
Network terminations.....	16
Billing and payment for medical services.....	17
Billed amounts by service type and network status	18
Billed amounts by provider type and network status.....	19
Paid amounts by provider type and network status.....	20
Percent of providers billed by network status	21
Percent of provider billed amount paid	22
Complaints	27
Consumer and provider complaints	28
Complaints to licensing boards.....	29



Background and report overview

Background

State legislation

In 2019, the Texas Legislature passed [Senate Bill \(SB\) 1264](#) to protect consumers with state-regulated health plans, about 20% of Texans in 2023, from surprise medical bills in emergencies and situations where the consumer didn't select the provider. For example, 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. The bill applies to services received on or after January 1, 2020.

SB 1264:

- Created a mechanism for providers to resolve billing disputes directly with health plans.
- Prohibited balance billing consumers for these services.
- Created two distinct billing dispute resolution processes:
 - Arbitration for physicians and other providers.
 - Mediation for facilities and labs.
- Required the Texas Department of Insurance (TDI) to:
 - Create a portal to request arbitration or mediation.
 - Collect quarterly data from health benefit plan issuers or administrators subject to [Chapter 1467](#).
 - [Conduct a study](#) on the bill's impact on Texas consumers and state health coverage.
 - Issue a report every two years on the survey findings.

The 2023 Legislature passed [SB 2476](#), which added emergency medical services and ground ambulance trips on or after January 1, 2024, to the surprise billing protections. Rather than participating in billing dispute resolution, health plans pay an amount set by Texas law for emergency medical services and ground ambulance trips.

In 2023, the Legislature also passed [House Bill 1592](#), which allows Employee Retirement Income Security Act health plans to opt-in to Texas' balance billing and independent dispute resolution system. These plans are not usually regulated by TDI. No plans have opted in as of the date of this report.

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 and does not supplant them. It also covers air ambulance for most types of health insurance, regardless of which agency regulates the plan.

Report overview

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 monitor implementation of the new law.

This report covers calendar year data for 2020 through 2023. Some charts and tables also include 2019 data to compare changes after the new law took effect. The effective date is shown as a dashed line in the charts.

Previous editions of this report:

- [2022 Biennial Report](#) (December 2022)
- [2021 Midyear Report](#) (July 2021)
- [2020 Biennial Report](#) (December 2020)
- [Preliminary Report](#) (July 2020)



Independent dispute
resolution portal requests
and outcomes

Arbitration and mediation requests

SB 1264 outlines the arbitration and mediation processes.

- **Arbitration:** For billing disputes between out-of-network health care providers and health plans.
- **Mediation:** For billing disputes between out-of-network facilities and health plans.

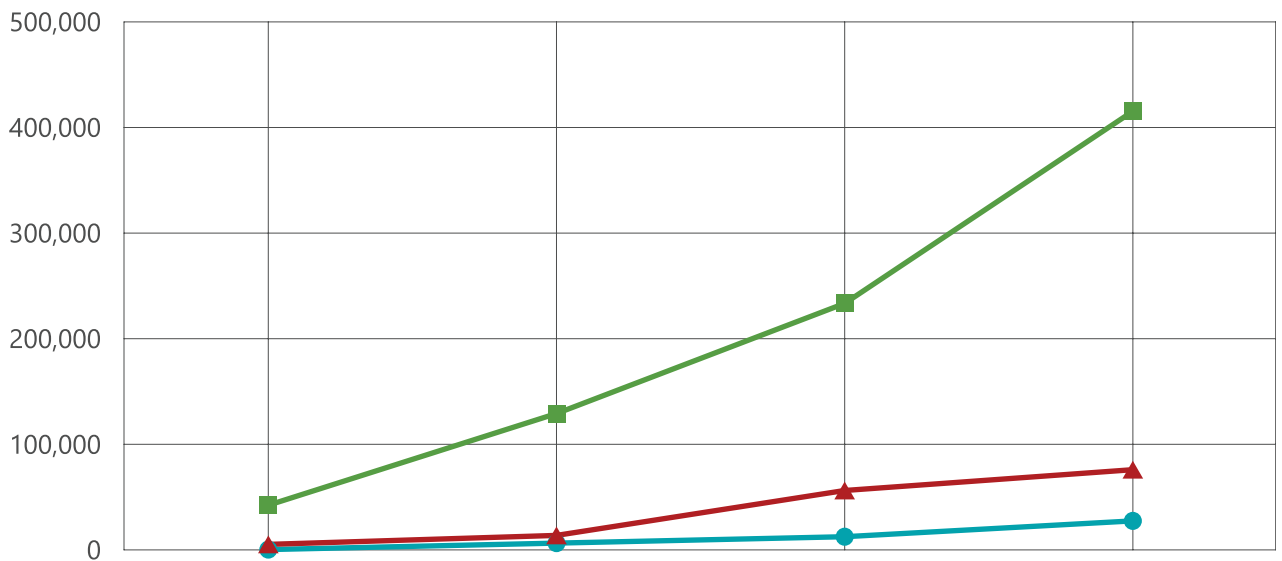
Portal requests

Portal requests continue to increase each year. From 2020 to 2023, TDI received over 1 million arbitration and mediation requests through the independent dispute resolution (IDR) portal. Of those requests:

- 820,485 were eligible for arbitration or mediation.
- 152,260 requests were ineligible for arbitration or mediation.
- 47,897 were withdrawn.

Some requests are still in the dispute resolution process or might not be eligible for dispute resolution under SB 1264.

IDR request eligibility

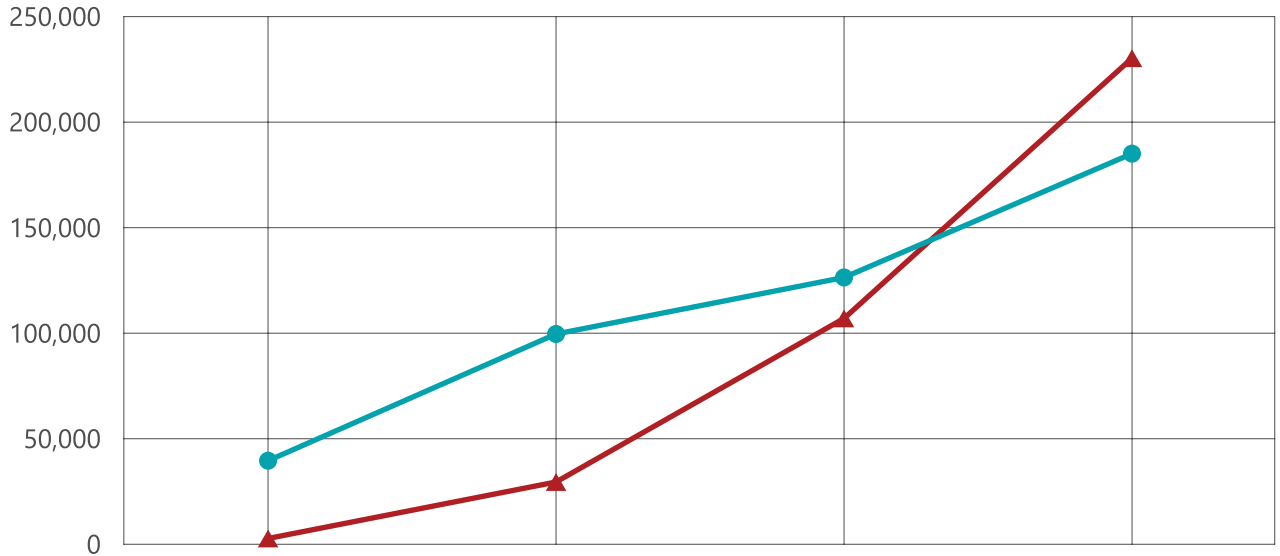


Outcome	2020	2021	2022	2023
■ Eligible	42,593	129,284	233,447	415,161
▲ Ineligible	5,544	14,031	56,504	76,181
● Withdrawn	628	6,728	12,788	27,753
Total	48,765	150,043	302,739	519,095

When the portal opened, only 7% of eligible requests were for mediation. Since then, mediation requests have grown faster than arbitration requests. From 2020 to 2023, there have been:

- 450,757 eligible arbitration requests.
- 369,728 eligible mediation requests.

Eligible arbitration and mediation requests



Request type	2020	2021	2022	2023
● Arbitration	39,694	99,657	126,411	184,995
▲ Mediation	2,899	29,627	107,036	230,166
Total	42,593	129,284	233,447	415,161

Bundled requests

SB 1264 allows health plans and submitters to include multiple claims on a single request if the:

- Disputed arbitration amount is \$5,000 or less and involves a single provider. As of 2023, 82,160 arbitration requests involved multiple claims.
- Health plan and the submitter agree to bundle the mediation claims. As of 2023, 2,295 mediation requests involved multiple claims.

Fees

SB 1264 doesn't limit arbitrator or mediator fees or give TDI authority to set fees. Instead, each arbitrator and mediator sets a fixed fee per case. There isn't a fee to submit a request for IDR or take part in informal settlement discussions. Each party pays half the fee after TDI assigns the case to an arbitrator or mediator.

Arbitrator and mediator fees through 2023

Request type	Lowest fee	Median fee	Highest fee	Total fees paid
Arbitrator	\$ 400	\$ 1,000	\$ 4,750	\$ 106.4 million
Mediator	\$ 100	\$ 900	\$ 5,450	\$ 14.7 million

Timelines

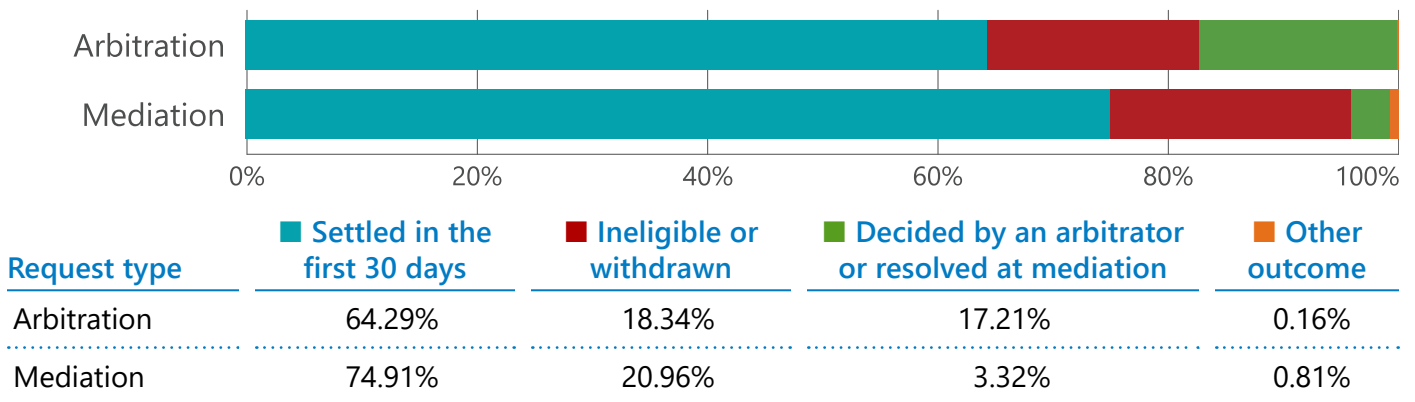
Plans and providers can request IDR 20 days after the out-of-network provider receives the first claim payment. They must make arbitration requests within 90 days of the first payment.

Arbitration and mediation have a 30-day informal settlement period to settle or pick an arbitrator or mediator. Plans and providers can extend the deadline if they both agree. Most cases are settled during the 30-day period, including 64% of arbitration cases and 75% of mediation cases. If the plan and provider don't reach a settlement by day 31 and they haven't selected an arbitrator or mediator, the portal will assign one.

Arbitration cases must be done in 51 days. Mediation cases have 180 days.

Portal request outcomes

IDR request outcomes through 2023

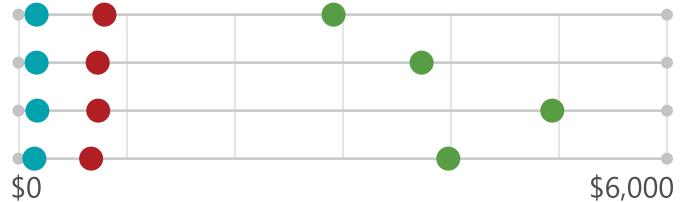


Average request resolution

This data includes requests involving a single claim for service. We excluded requests with multiple claims to avoid skewing the data.

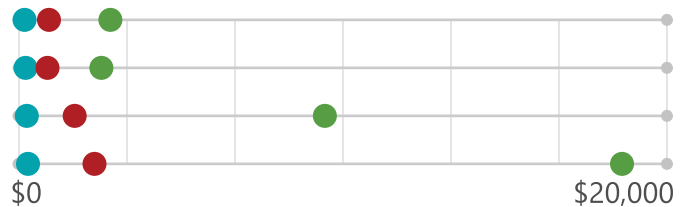
Arbitration request settled in informal teleconference

Year	Original payment	Settlement amount	Billed amount
2020	\$ 170	\$ 791	\$ 2,913
2021	165	733	3,731
2022	170	735	4,947
2023	149	669	3,976



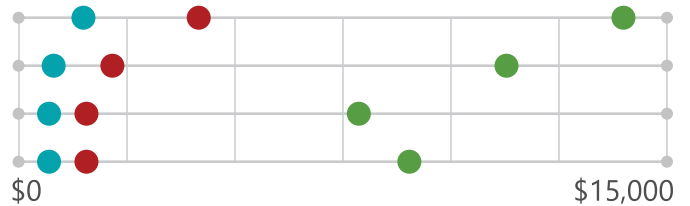
Arbitration request decided by an arbitrator

Year	Original payment	Awarded amount	Billed amount
2020	\$ 202	\$ 937	\$ 2,829
2021	224	900	2,526
2022	254	1,735	9,436
2023	289	2,342	18,577



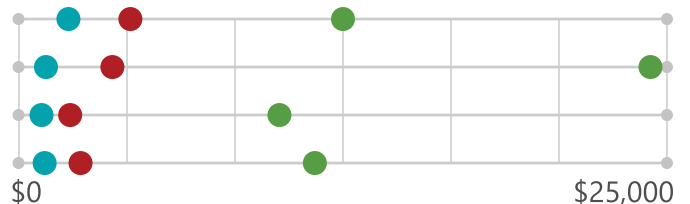
Mediation request settled in informal teleconference

Year	Original payment	Settlement amount	Billed amount
2020	\$ 1,496	\$ 4,163	\$ 13,978
2021	803	2,165	11,264
2022	693	1,573	7,846
2023	706	1,589	9,031



Mediation request settled with a mediator

Year	Original payment	Agreement amount	Billed amount
2020	\$ 1,940	\$ 4,291	\$ 12,516
2021	1,086	3,622	24,319
2022	889	1,989	10,038
2023	1,025	2,409	11,397





Health plan data

Health plan data overview

TDI collected billing and payment data quarterly from 37 commercial health plan issuers. Blue Cross and Blue Shield of Texas and Aetna also submitted data for the Teacher Retirement System of Texas and Employees Retirement System of Texas. Not all health plans reported ground and air ambulance data, so data for those two provider types isn't reflective of the entire market.

Data is shown in the year the transaction occurred. A bill might be paid that same year or in a later year. This report doesn't track bills to payments. Instead, health plans sent total billed and payment amounts made each quarter. The quarter data for each year was combined into annual 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 doctor (ER doctor)
- Pathologist
- Radiologist
- Assistant surgeon
- Surgical assistant
- Air ambulance
- Ground ambulance

Service types

- Diagnostic imaging (diagnostic)
- Emergency
- Facility-based (facility)
- Laboratory (lab)

Findings

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 more likely to be in-network than freestanding ERs and ground ambulances.
- Health plans reimburse billed amounts of in-network providers more than out-of-network providers.

Network providers and terminations

Network providers

Health plans contract with many of the same providers. Combining the number of providers reported by each plan would inflate the number because we'd be counting providers more than once.

Instead, we looked at the numbers reported by each plan and determined an average number of network providers. 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 service type

Provider type	Diagnostic		Emergency		Facility		Lab	
	2019	2023	2019	2023	2019	2023	2019	2023
Hospital	1,078.2	1,476.9	689.2	951.1	957.0	1,303.4	1,054.9	1,325.7
Freestanding ER	3.3	6.4	25.7	29.0	3.1	50.3	3.3	6.2
Anesthesiologist	2,422.1	1,758.3	2,395.8	2,056.0	3,241.1	3,402.4	610.5	812.6
ER doctor	162.0	291.4	1,427.1	1,599.4	1,347.2	1,295.8	159.7	283.1
Pathologist	537.0	338.5	109.9	172.5	546.6	431.0	537.0	494.8
Radiologist	1,375.6	1,459.1	984.9	894.4	1,190.9	1,079.1	890.0	898.1
Assistant surgeon	-	-	0.1	1.6	822.5	978.3	-	-
Surgical assistant	17.2	20.4	10.2	14.7	106.2	73.1	2.1	3.1
Air ambulance	5.1	1.5	31.9	17.5	6.7	1.5	5.1	1.5
Ground ambulance	1.2	8.1	12.6	36.4	1.5	7.9	1.2	8.0
Total	5,601.8	5,360.6	5,687.3	5,772.7	8,222.9	8,622.9	3,263.7	3,833.0

Note: Some totals may not equal due to rounding.

Network terminations

A network termination means a medical provider is no longer in a health plan's network. A plan administrator, health plan, or the provider can initiate this. The data below is combined terminations. It's possible that a single provider was terminated from more than one health plan during the year. For example, a doctor who retires would be terminated from all health plans that included the doctor.

In 2023, there were 15,740 terminations:

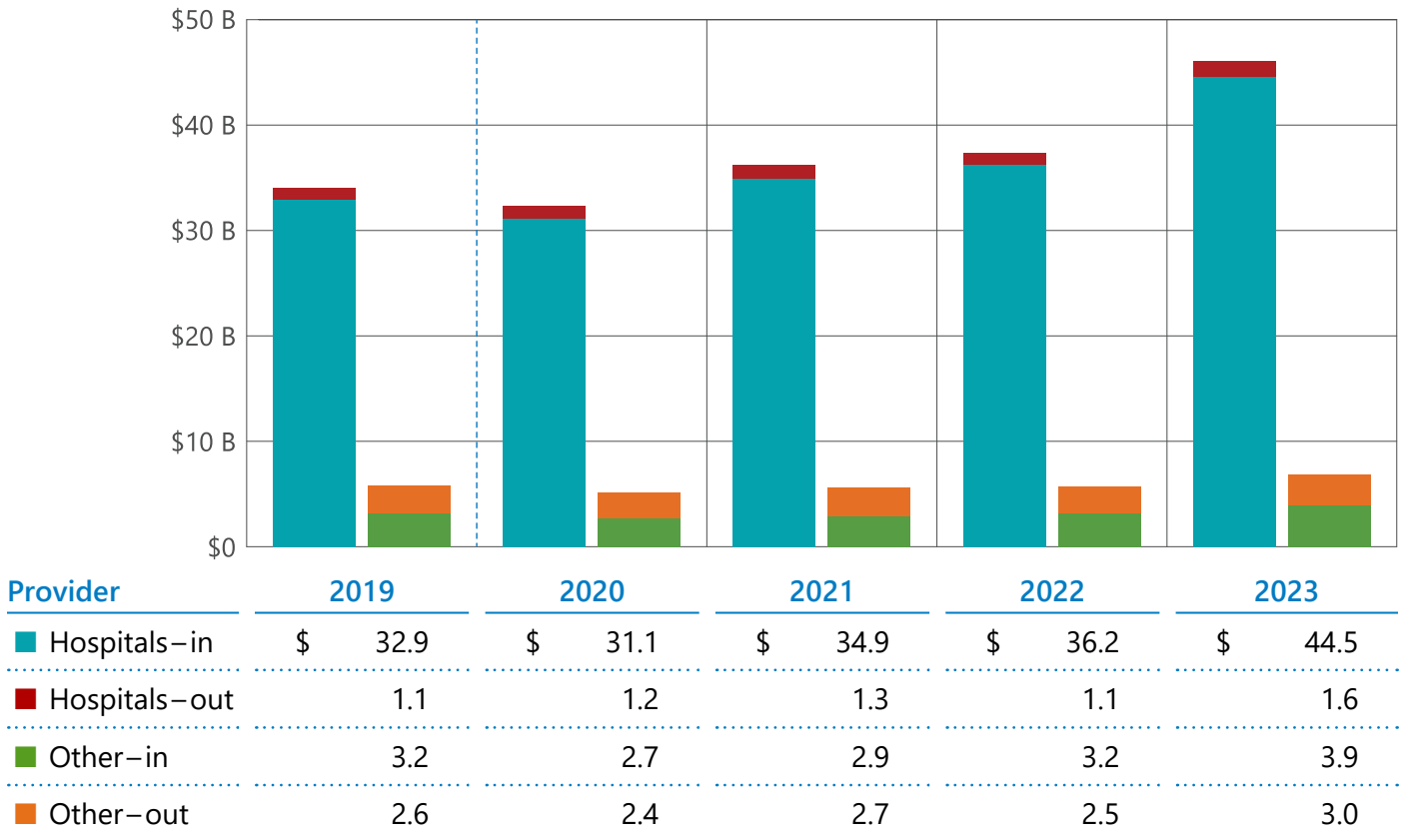
- 5,053 were initiated by administrators.
- 823 were initiated by health plan insurers.
- 9,864 were initiated by providers.

Billing and payment for medical services

The amount of business conducted by hospitals was significantly higher than other services. This was most noticeable for services that were billed in-network or through a contract between the provider and health plan.

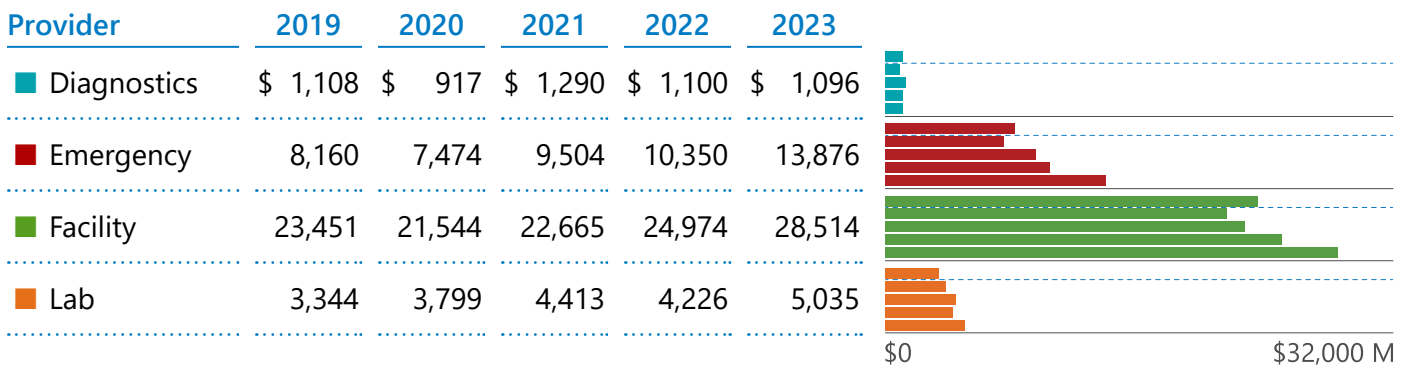
In the following charts, higher amounts billed by in-network providers compared to out-of-network providers may show stronger network participation by some providers.

Hospital vs. other providers billed amounts in billions

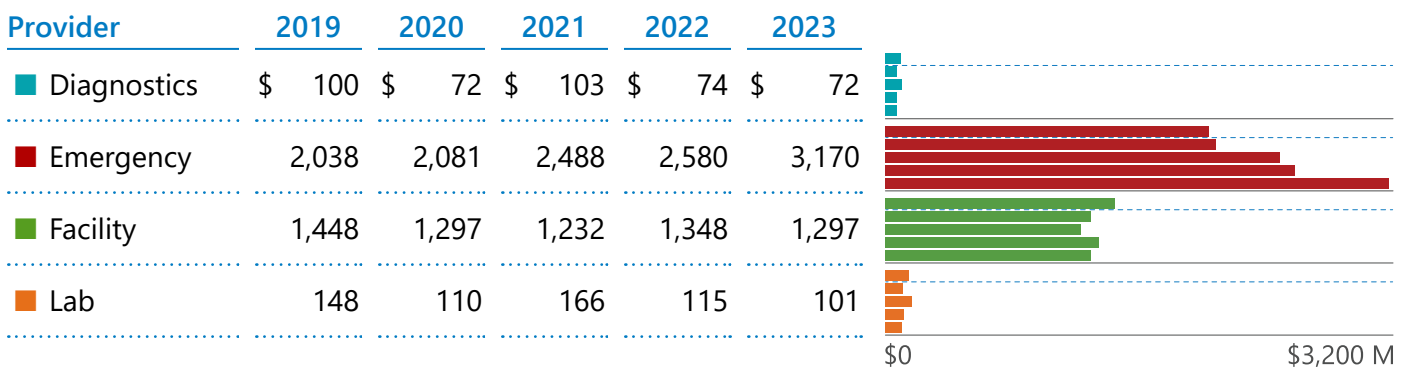


Billed amounts by service type and network status

In-network service billed amounts in millions

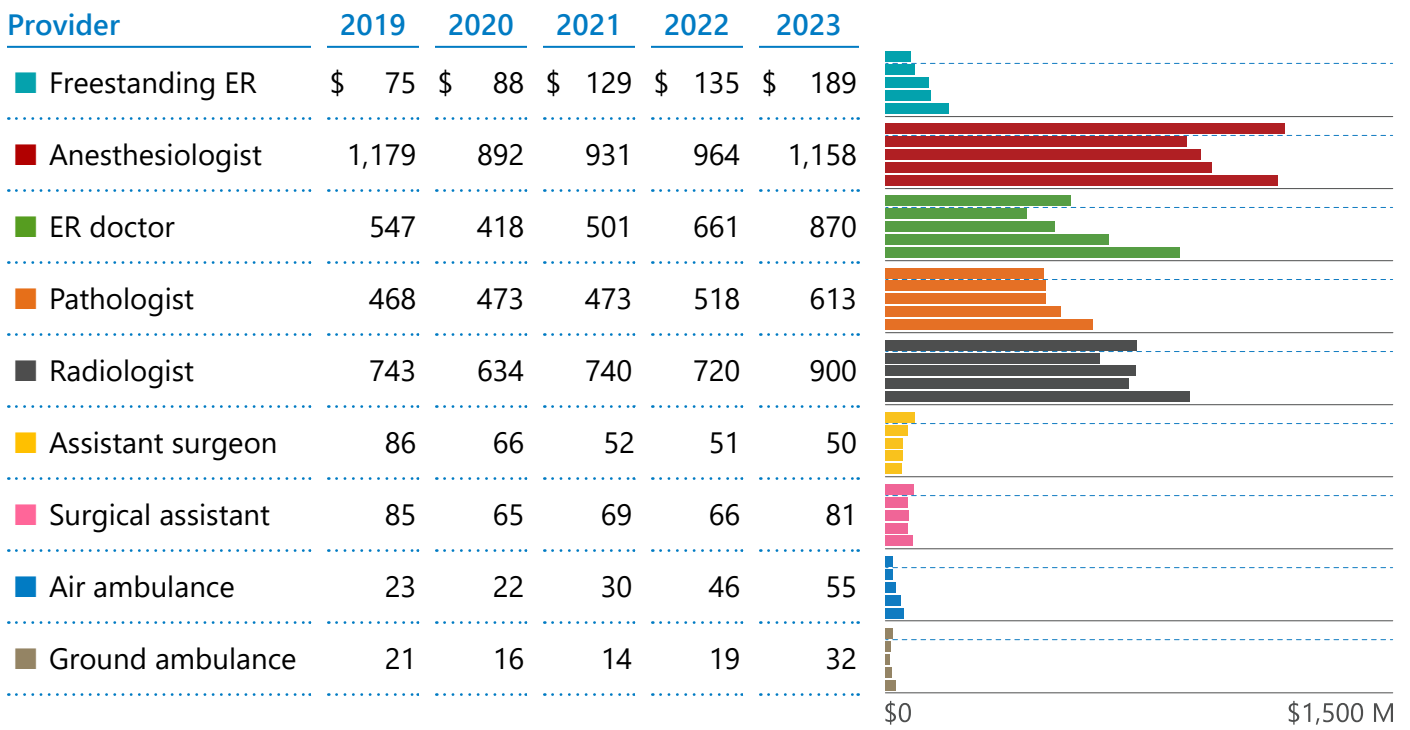


Out-of-network service billed amounts in millions

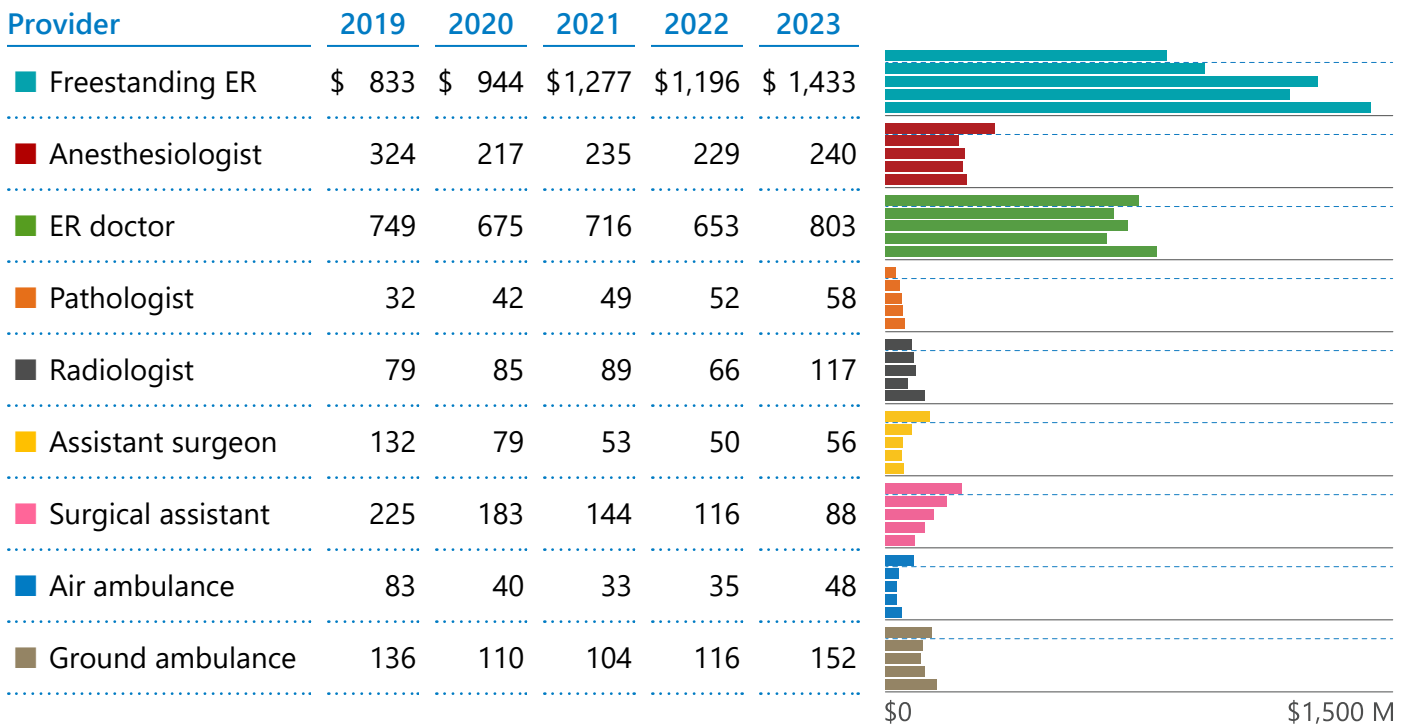


Billed amounts by provider type and network status

In-network provider billed amounts in millions

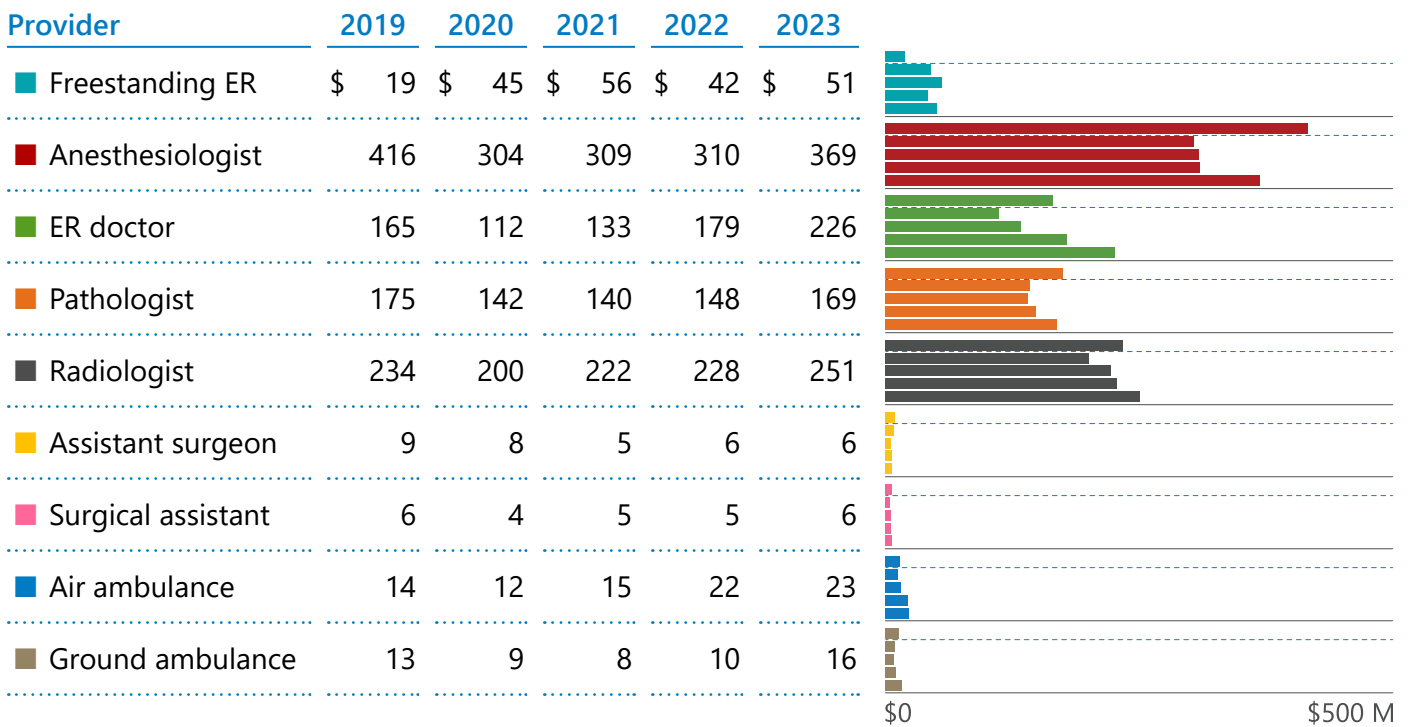


Out-of-network provider billed amounts in millions

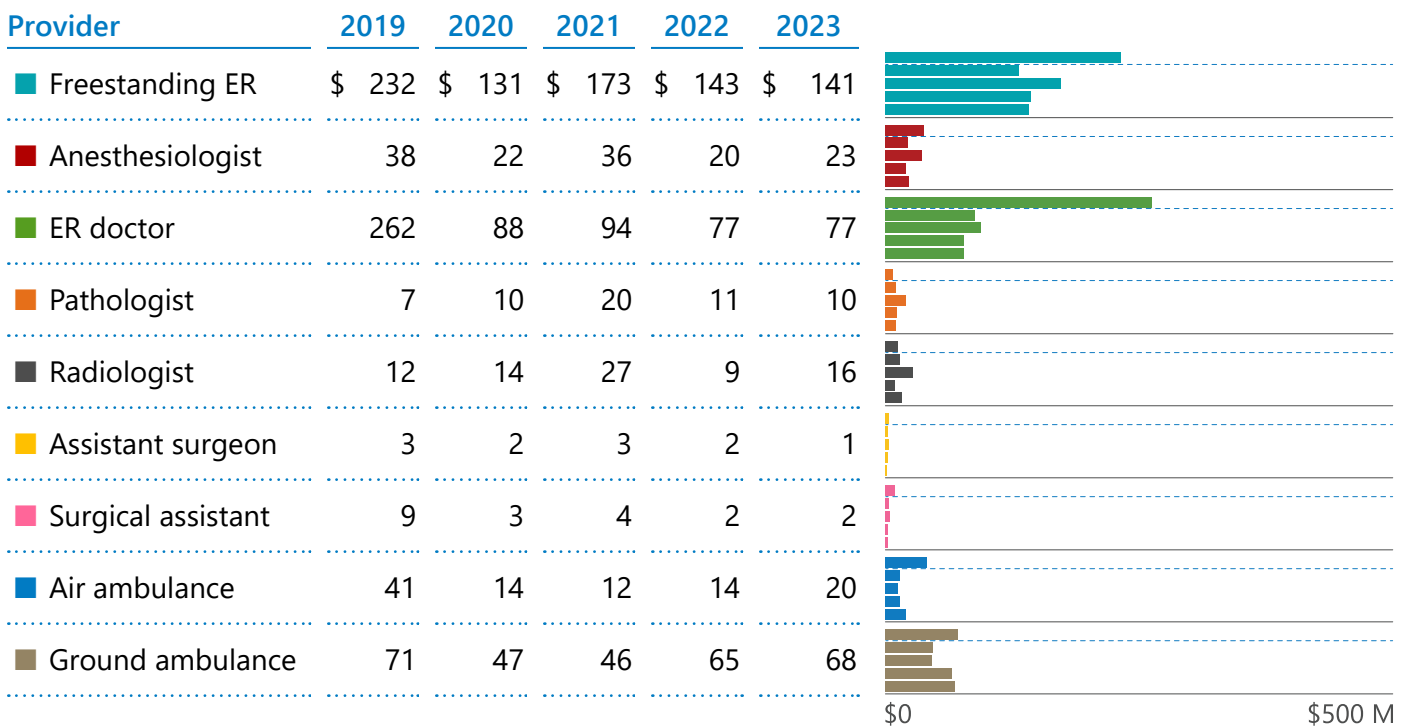


Paid amounts by provider type and network status

In-network provider paid amounts in millions



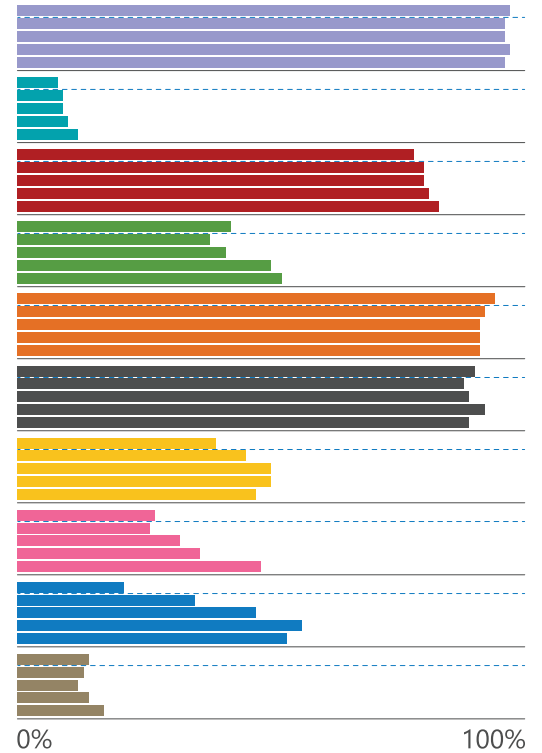
Out-of-network provider paid amounts in millions



Percent of providers billed by network status

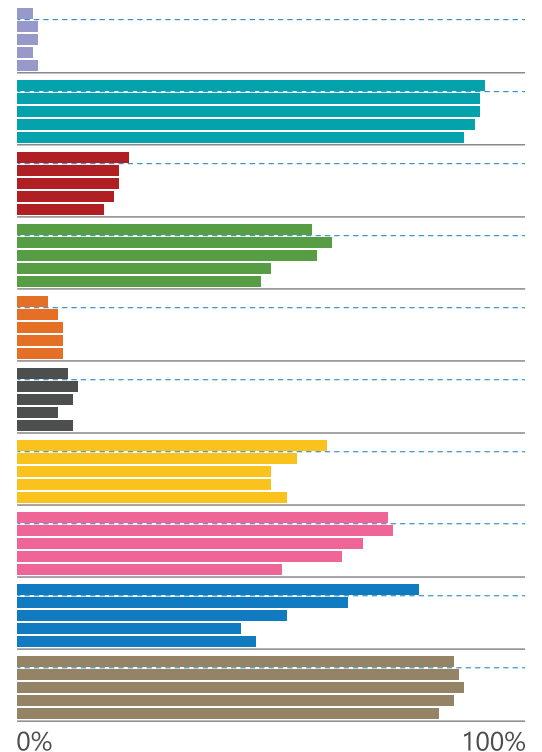
Providers billed as in-network

Provider	2019	2020	2021	2022	2023
Hospital	97%	96%	96%	97%	96%
Freestanding ER	8%	9%	9%	10%	12%
Anesthesiologist	78%	80%	80%	81%	83%
ER doctor	42%	38%	41%	50%	52%
Pathologist	94%	92%	91%	91%	91%
Radiologist	90%	88%	89%	92%	89%
Assistant surgeon	39%	45%	50%	50%	47%
Surgical assistant	27%	26%	32%	36%	48%
Air ambulance	21%	35%	47%	56%	53%
Ground ambulance	14%	13%	12%	14%	17%



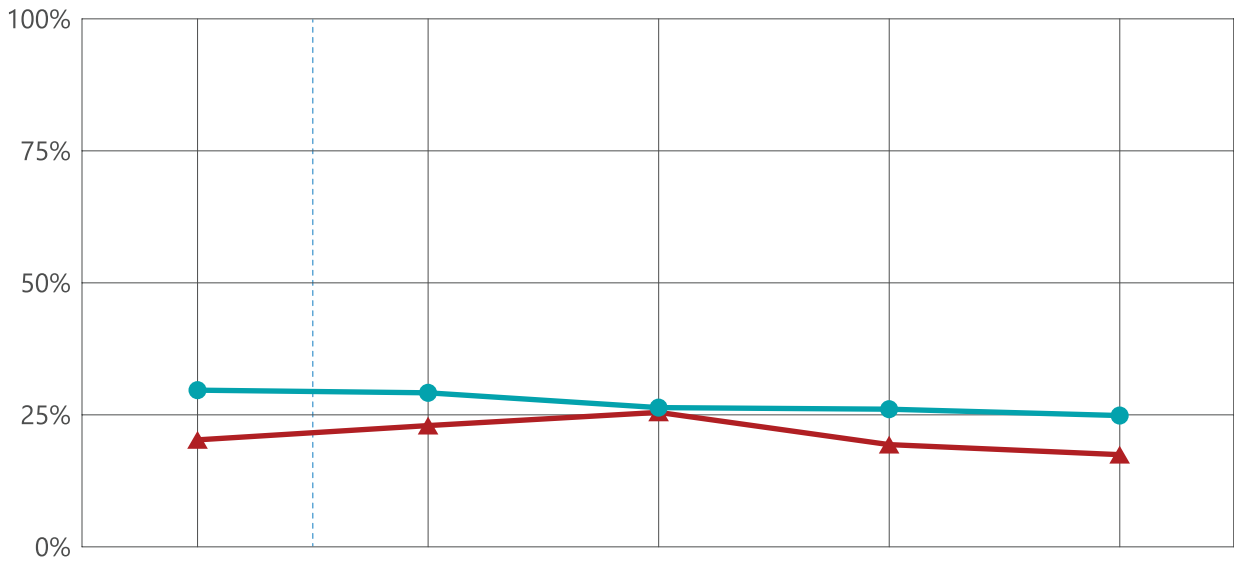
Providers billed as out-of-network

Provider	2019	2020	2021	2022	2023
Hospital	3%	4%	4%	3%	4%
Freestanding ER	92%	91%	91%	90%	88%
Anesthesiologist	22%	20%	20%	19%	17%
ER doctor	58%	62%	59%	50%	48%
Pathologist	6%	8%	9%	9%	9%
Radiologist	10%	12%	11%	8%	11%
Assistant surgeon	61%	55%	50%	50%	53%
Surgical assistant	73%	74%	68%	64%	52%
Air ambulance	79%	65%	53%	44%	47%
Ground ambulance	86%	87%	88%	86%	83%



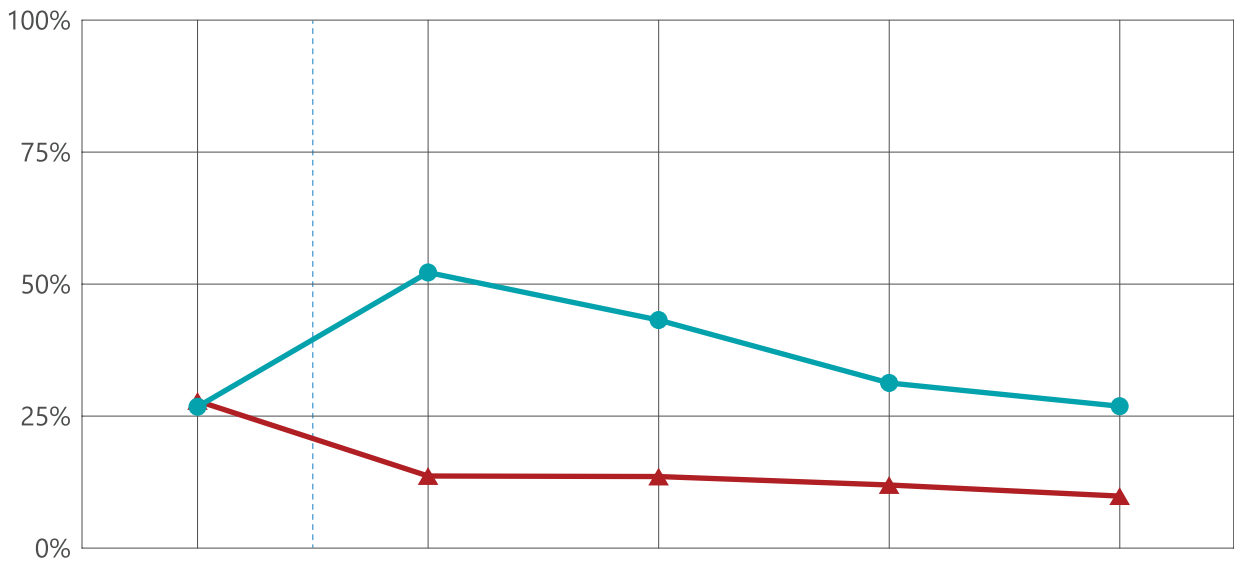
Percent of provider billed amount paid

Hospitals



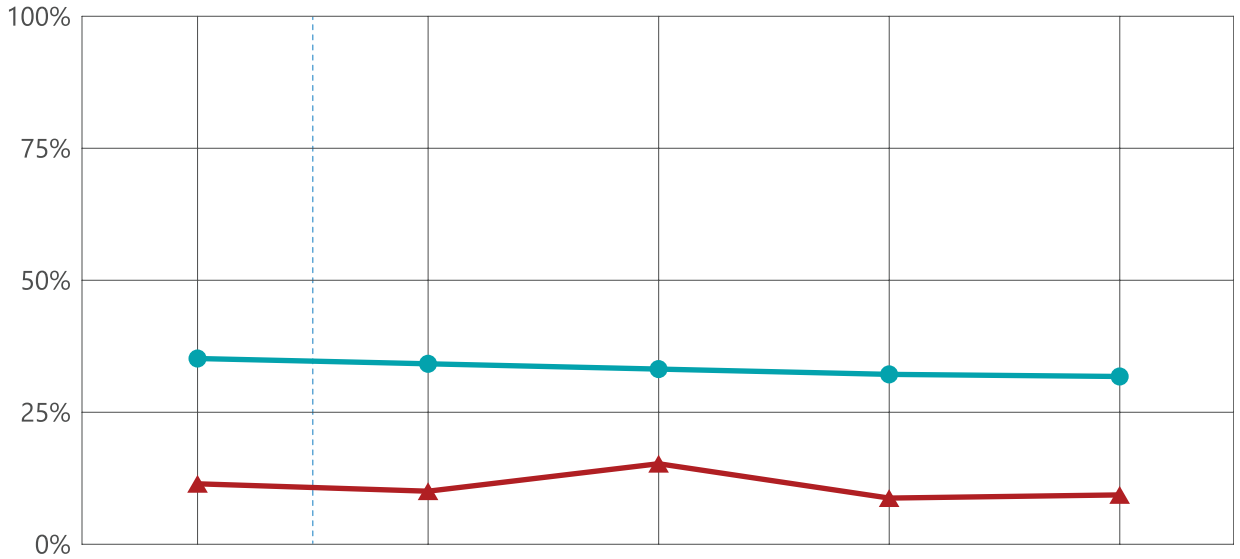
Network status	2019	2020	2021	2022	2023
● In	29.7%	29.2%	26.4%	26.1%	24.9%
▲ Out	20.3%	23.0%	25.5%	19.4%	17.5%

Freestanding ERs



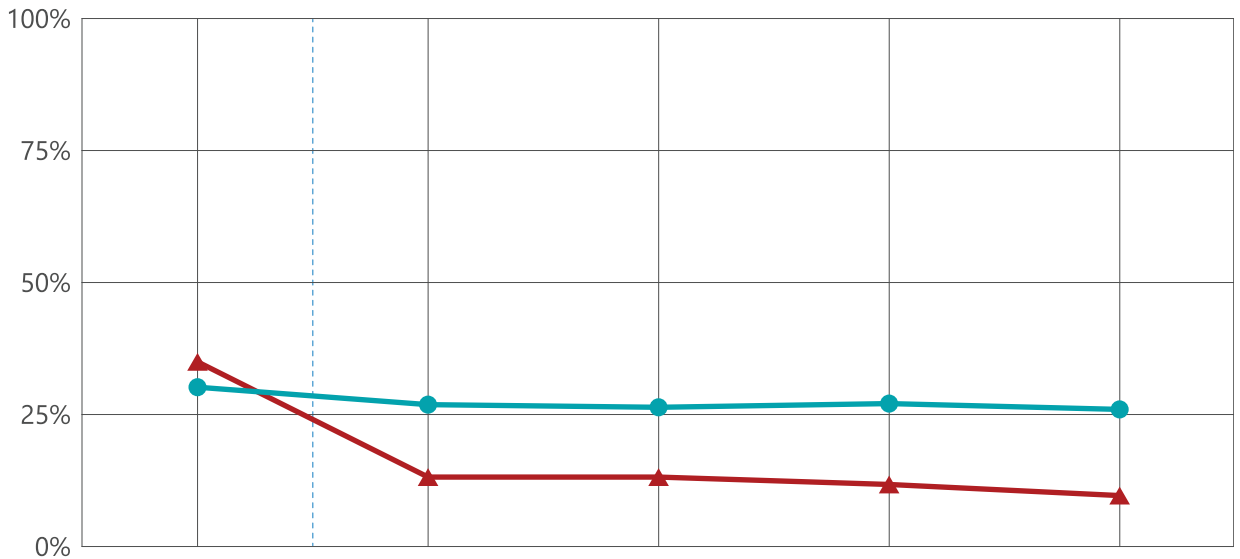
Network status	2019	2020	2021	2022	2023
● In	26.8%	52.2%	43.2%	31.3%	26.9%
▲ Out	27.9%	13.7%	13.6%	12.0%	9.9%

Anesthesiologists



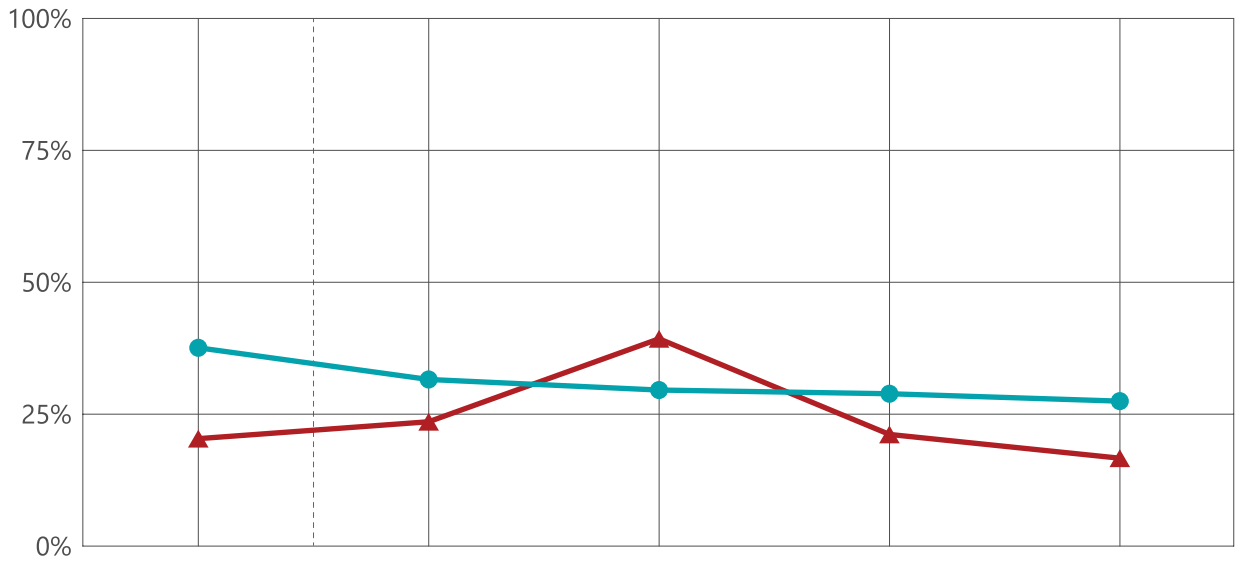
Network status	2019	2020	2021	2022	2023
● In	35.2%	34.2%	33.2%	32.2%	31.8%
▲ Out	11.5%	10.1%	15.3%	8.8%	9.4%

ER doctors



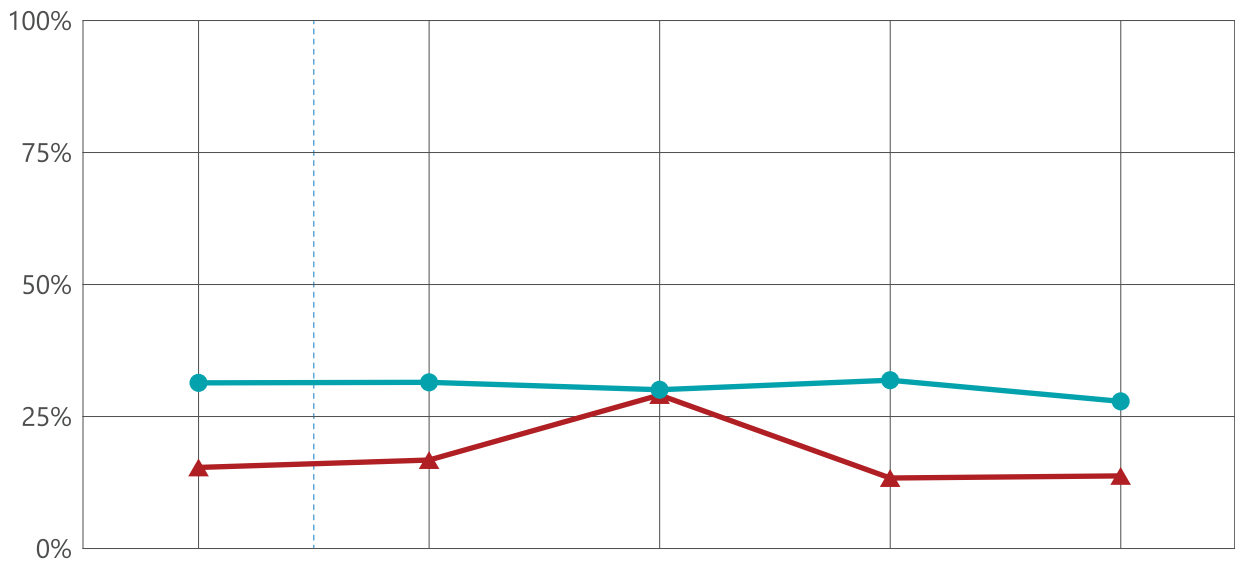
Network status	2019	2020	2021	2022	2023
● In	30.2%	26.9%	26.4%	27.1%	26.0%
▲ Out	35.0%	13.2%	13.2%	11.8%	9.7%

Pathologists



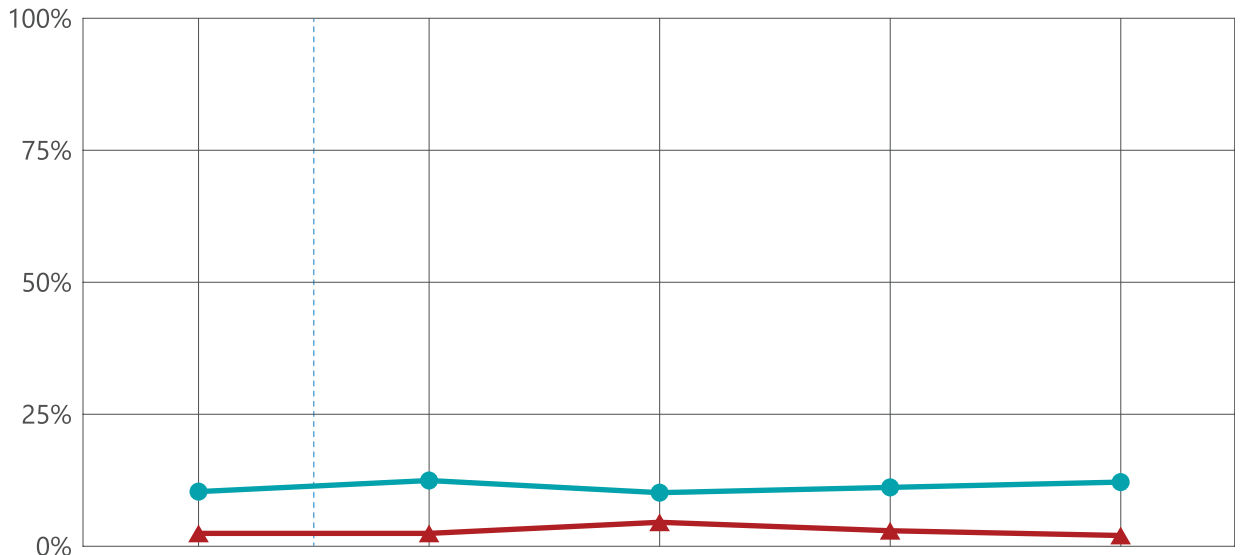
Network status	2019	2020	2021	2022	2023
● In	37.6%	31.6%	29.6%	28.9%	27.5%
▲ Out	20.4%	23.6%	39.3%	21.2%	16.7%

Radiologists



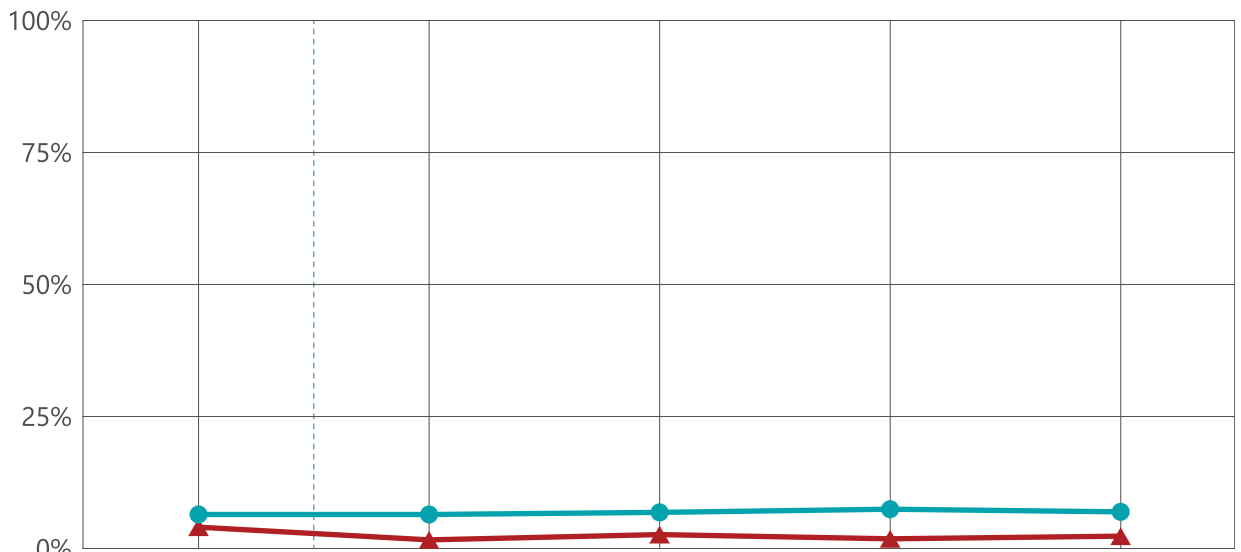
Network status	2019	2020	2021	2022	2023
● In	31.4%	31.5%	30.1%	31.9%	27.9%
▲ Out	15.4%	16.8%	29.1%	13.4%	13.8%

Assistant surgeons



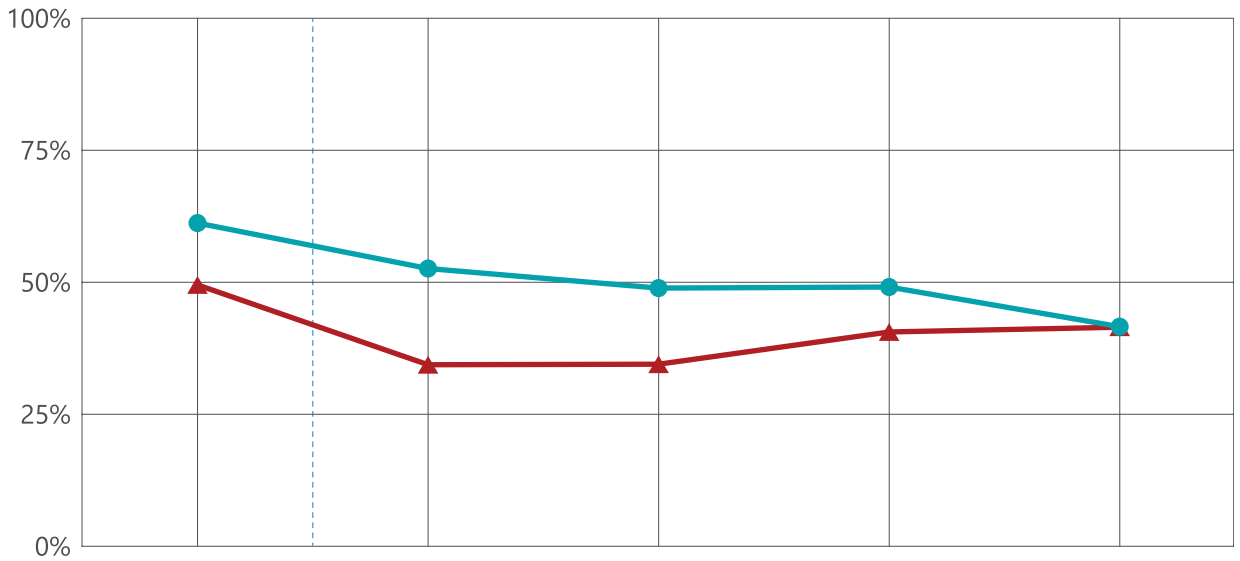
Network status	2019	2020	2021	2022	2023
● In	10.4%	12.5%	10.2%	11.2%	12.2%
▲ Out	2.5%	2.5%	4.6%	3.0%	2.1%

Surgical assistants



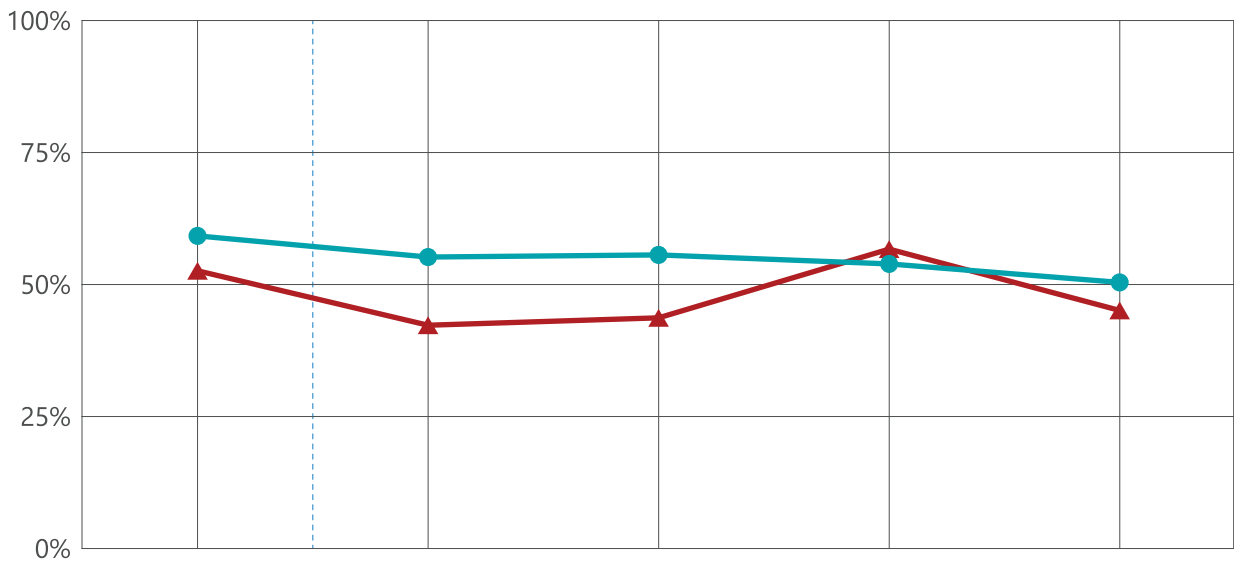
Network status	2019	2020	2021	2022	2023
● In	6.5%	6.5%	6.9%	7.5%	7.0%
▲ Out	4.1%	1.7%	2.7%	1.9%	2.4%

Air ambulance



Network status	2019	2020	2021	2022	2023
● In	61.2%	52.6%	48.9%	49.1%	41.6%
▲ Out	49.5%	34.4%	34.5%	40.6%	41.5%

Ground ambulance



Network status	2019	2020	2021	2022	2023
● In	59.2%	55.2%	55.6%	53.9%	50.4%
▲ Out	52.6%	42.3%	43.7%	56.7%	45.1%

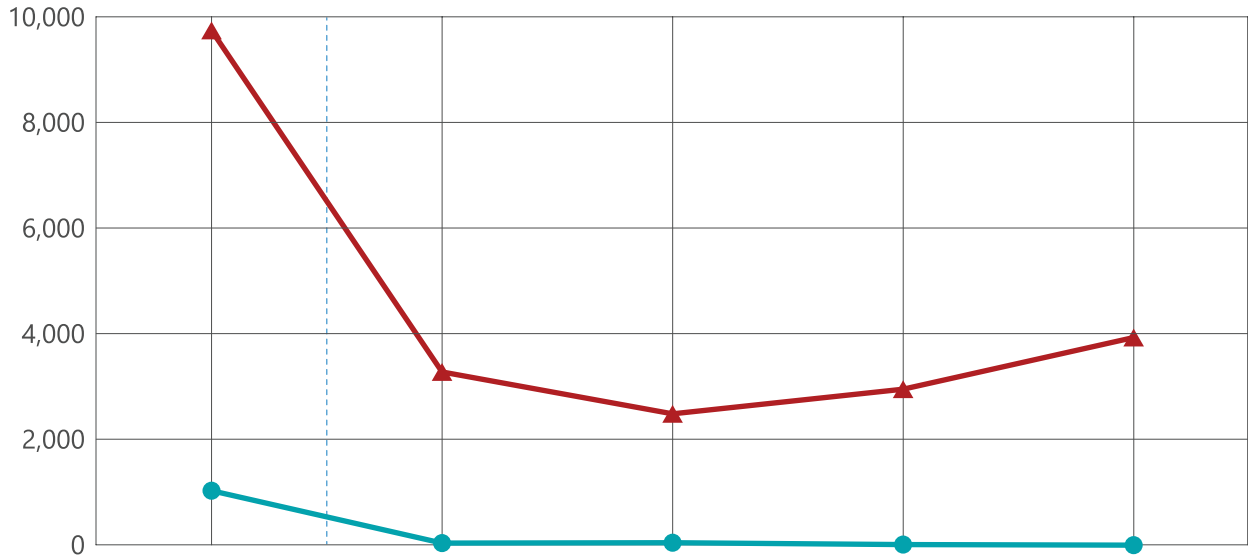


Complaints

Consumer and provider complaints

Since balance billing protections began in 2020, consumer complaints have declined. In 2023, there were no balance billing consumer complaints. Recent complaints were about not understanding coinsurance amounts and about plans that TDI doesn't regulate.

Balance billing complaints



Complaint type	2019	2020	2021	2022	2023
● Consumer	1,030	39	46	11	-
▲ Provider	19,736	3,276	2,484	2,950	3,927
Total	10,766	3,315	2,530	2,961	3,927

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

Complaints to licensing boards

TDI collects complaint, investigation, and disciplinary sanction data from licensing boards.

Licensing board complaints and outcomes

Licensing board	2020	2021	2022	2023
Texas Board of Nursing				
Complaints	-	5	1	3
Completed investigations	-	1	1	1
Disciplinary sanctions	-	-	-	-
Texas Department of Licensing and Regulation				
Complaints	-	-	-	-
Completed investigations	-	-	-	-
Disciplinary sanctions	-	-	-	-
Texas Health and Human Services Commission				
Complaints	27	59	50	32
Completed investigations	-	4	1	6
Disciplinary sanctions	-	2	-	-
Texas Medical Board				
Complaints	19	43	28	6
Completed investigations	16	35	20	9
Disciplinary sanctions	-	-	1	-



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