



American College of
Emergency Physicians®

ADVANCING EMERGENCY CARE 

POLICY STATEMENT

Approved April 2016

Balance Billing

Revised April 2016, with
current title April 2009

Reaffirmed October 2008

Originally approved October
2002 titled "Prohibition of
Balance Billing," replacing
Council Resolution CR31
with the same title

Since 1986, EMTALA (The Emergency Medical Treatment and Labor Act) has required that anyone coming to an emergency department be seen and treated, regardless of their insurance status or ability to pay. Emergency departments and providers create a "safety net" for anyone in the nation in need of medical care and deserve our support. Unfortunately, the claims of physicians who provide emergency care for commercially insured services are often paid by health plans at rates that are substantially below the usual and customary value of these services. In the recent past, most plans based the allowed benefit for these services on the 70th or 80th percentile of usual and customary charges, but the database most often used for this purpose underrepresented these charges¹. In response to successful challenges to such flawed databases, some plans have established out-of-network benefit rates that are still substantially below usual and customary payments. Health plans know that emergency medical care must be provided for their enrollees no matter how poorly the plans pay for these services. The lack of a system to ensure fair benefit payments has allowed payers to underpay the fair value of emergency services, creating an imperative to preserve balance billing. Balance billing ensures the ability to provide patient care services where there are no enforced laws or regulations requiring health plans to pay appropriate benefits for emergency care claims at rates sufficient to maintain the financial viability of the nation's emergency care system.

¹ As determined by the New York Attorney General.