

Senate Bill 1264 2021 midyear report

July 2021



Texas Department of Insurance
www.tdi.texas.gov

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Overview

Senate Bill 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. The program continues to grow, with dispute resolution requests received in the first six months of 2021 already exceeding the number of requests for all of 2020.

SB 1264 creates a mechanism for providers to resolve billing disputes directly with health plans and prohibits balance billing consumers for these services. In the first 18 months of implementation, the Texas Department of Insurance (TDI) has received 98,586 eligible requests to resolve medical billing disputes totaling \$450 million. SB 1264 protects consumers from receiving balance bills for the disputed amounts.

TDI must issue a report on the impacts of the legislation each biennium. In addition to the required [biennial report](#), TDI also produced a [six-month report](#) in 2020 and is doing so again this year to help monitor implementation of the new law.

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 similar providers and mediation for facilities and labs.

Federal legislation – the No Surprises Act – will provide balance billing protections for consumers with other types of health coverage starting January 1, 2022. TDI is requesting information from the U.S. Centers for Medicare & Medicaid Services to determine if the federal process will affect the state's arbitration and mediation processes.

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

Key data points

Continued growth

The number of dispute resolution requests continues to increase each month. Requests received in the first half of 2021 exceed 2020 totals.

Arbitration and mediation requests

<u>Year</u>	<u>Arbitration requests</u>	<u>Mediation requests</u>
2020	44,910	3,855
Jan-June 2021	50,230	13,582

Complaints down

SB 1264's balance billing protections have resulted in sharp declines in consumer complaints. In 2019, TDI received 1,031 complaints about balance billing. In 2020, TDI received 40, and there have been 28 complaints in the first half of 2021. Most of the recent complaints involve confusion about coinsurance amounts or plans not regulated by TDI.

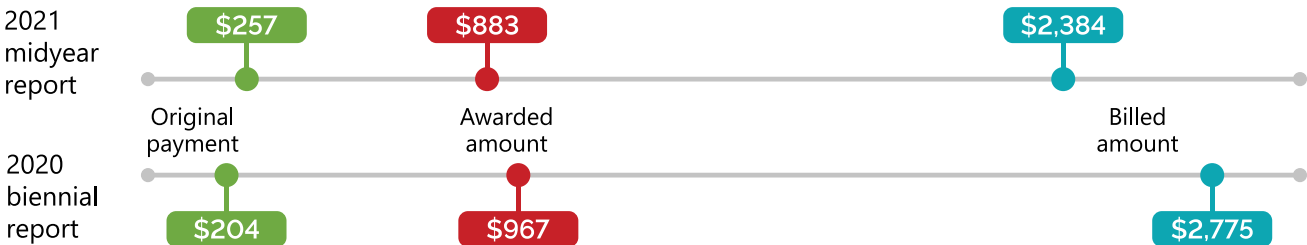
Shifts in outcomes

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 in 2020, other causes, or a combination of factors. The graphics below compare the first half of 2021 to the data published in the required [biennial report](#), which covered January to October 2020.

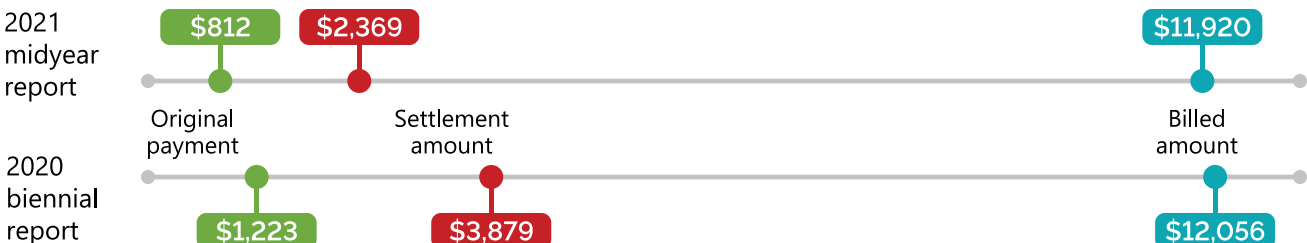
Arbitration requests settled in informal teleconference



Decided by an arbitrator



Mediation requests settled in informal teleconference



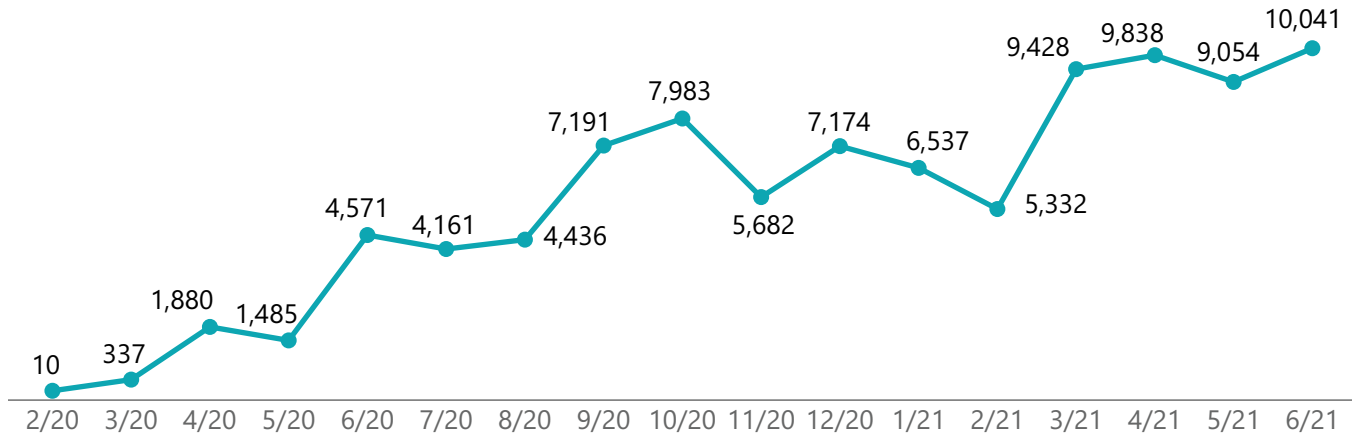
Settled with a mediator



Arbitration

SB 1264 outlines an arbitration process for billing disputes between out-of-network health care providers (not facilities) and health plans. In 2020, TDI received 44,910 requests for arbitration. In the first half of 2021, TDI received 50,230 requests.

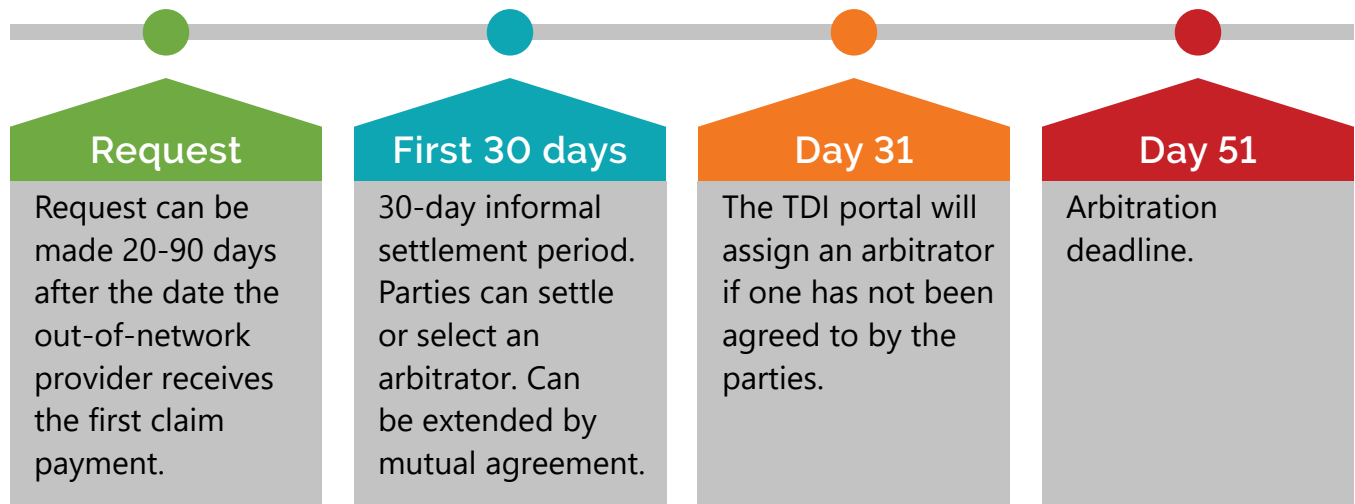
Arbitration requests by month



Arbitration requests by provider type

Provider type	Jan-June 2021
Emergency department physician	35,172
Anesthesiologist	8,238
Certified registered nurse anesthetist	1,993
Radiologist	1,749
Surgical assistant	759
Physician assistant	741
Assistant surgeon	686
Neuromonitor	321
Surgeon	169
Hospitalist	117
Nurse practitioner	96
Pathologist	72
Neonatologist	29
Neurologist	10
Other	78
Total	50,230

Arbitration timeline



How cases are resolved

Some requests received through June 30, 2021, are still in the dispute resolution process or were not eligible for dispute resolution under SB 1264.

Arbitration request resolution

- 19,194 requests settled in the first 30 days
- 13,648 requests settled by an arbitrator
- 5,997 ineligible or withdrawn

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. In the first half of 2021, 17.4% of arbitration requests have involved multiple claims – down from 31% in 2020.

Arbitrator fees

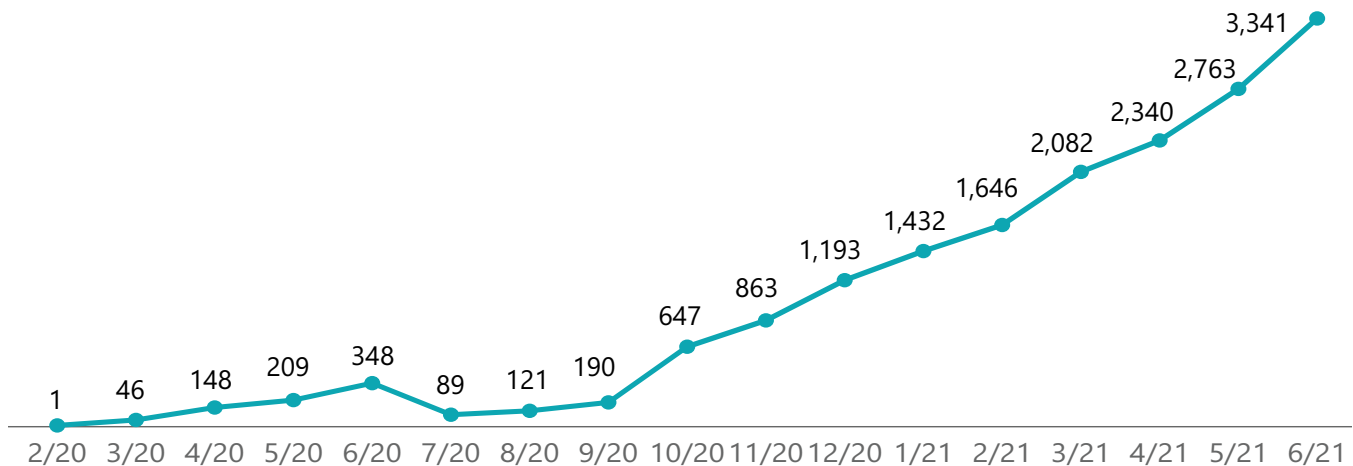
SB 1264 does not limit arbitrator fees. Instead, arbitrators set their own fixed fees per case. There is no fee to submit a request for dispute resolution or take part in informal settlement discussions. Each party pays half the fee once TDI assigns the case to an arbitrator.

Median fee:	\$1,000
Lowest fee:	\$350
Highest fee:	\$5,000
Total fees paid:	\$30,000,800

Mediation

SB 1264 outlines a mediation process for billing disputes between out-of-network facilities and health plans. In the first half of 2021, TDI has received 13,582 requests for mediation – more than three times the total for all of 2020.

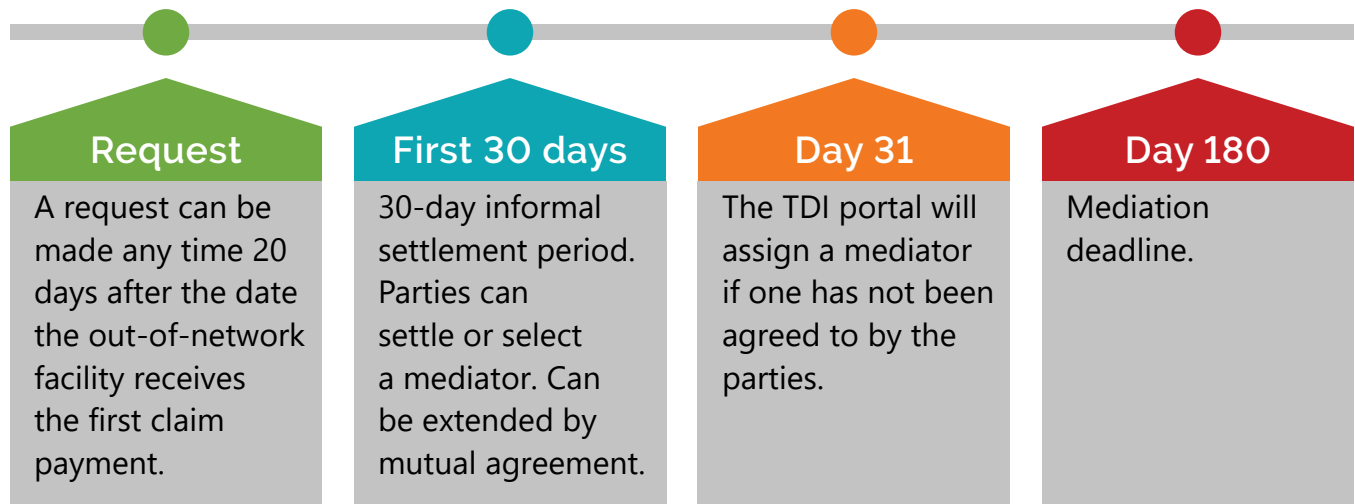
Mediation requests by month



Mediation requests by facility type

Facility type	Requests
Freestanding emergency room	10,322
Hospital	3,208
Ambulatory surgical center	23
Lab	19
Birthing center	10
Total	13,582

Mediation timeline



Resolution of mediation requests

Some requests received through June 30, 2021, are still in the dispute resolution process or were not eligible for dispute resolution under SB 1264.

Mediation request resolution

- 9,157 requests settled in the first 30 days
- 80 requests settled by a mediator
- 1,877 ineligible or withdrawn

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. In the first half of 2021, 1.2% of mediation requests involved multiple claims – down from 3% in 2020.

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.

Median fee:	\$750
Lowest fee:	\$80
Highest fee:	\$3,000
Total fees paid:	\$841,166



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