BILL SUMMARY
2nd Session of the 57th Legislature

Bill No.:	**HB 3388**
Version:	**Proposed Committee Substitute**
Request Number:	**11084**
Author:	**Sneed**
Date:	**2/24/2020**
Impact:	**Please see previous summary of this measure**

Research Analysis

The PCS to HB 3388 creates the Oklahoma Out-of-Network Surprise Billing and Transparency Act. The act defines surprise billing as the practice of a health provider charging an enrollee the difference between a provider's fee and the sum of what the enrollee's health insurance pays. Health providers are prohibited from surprise billing patients. Health insurers are prohibited from restricting providers from billing patients the applicable cost-sharing requirements.
If an insured patient receives emergency services from an out-of-network provider, the patient's insurer must pay the provider the greater of the Medicare rate, in-network rate, usual, customary, and reasonable rate, or agreed upon amount. If an insured patient receives covered services from an out-of-network provider, the patient's insurer must pay the provider the usual, customary, and reasonable rate, or an agreed upon amount.

The Insurance Commissioner is directed to select a nonprofit organization to maintain a benchmarking database containing information on percentiles of billed charges from out-of-network providers and rates paid to in-network providers, in order to determine the usual, customary, and reasonable rate. The usual, customary, and reasonable rate is the 80th percentile of all charges for a particular service. Insurers are required to submit data necessary to maintain the benchmarking database.

In the event of a disputed payment, a provider or insurer may request arbitration. The disputing party may only request arbitration within 90 days of payment. The parties must meet via teleconference within 30 days of arbitration being requested. If parties cannot mutually agree via teleconference, the Insurance Commissioner will select an independent arbitrator. The arbitrator may only determine the question of if the payment is a reasonable amount for the health care service, and must take certain factors into account such as fees paid and medical necessity. For arbitration involving multiple claims, the total disputed amount may not exceed $5,000. The measure defines bad faith participation in arbitration and directs the Insurance Commissioner and Oklahoma Board of Medical Licensure and Supervision to impose administrative penalties for violating parties. Arbitration under this at is not subject to the Uniform Arbitration Act.
Parties involved in arbitration may not file suit for violations under this act until arbitration has concluded. Parties must file within 45 days after the arbitration's conclusion.

Lastly, the measure directs the Oklahoma Insurance Department to study the impact of this act every two years. The study will contain trends in billed and paid amounts, network participation, and arbitration. The report must be submitted to the Legislature before December 1 every other year.

Prepared By: Anna Rouw

Fiscal Analysis

The measure is currently under review and impact information will be completed.

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Other Considerations

None.