

Balance billing protection act impact analysis

Annual report to the Legislature

Dec. 15, 2022

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Purpose & background

In 2019, Washington state enacted the Balance Billing Protection Act (BBPA), which took effect on Jan. 1, 2020. The BBPA is intended to protect consumers from balance or “surprise” billing – specifically for out-of-network facility or provider charges billed to patients for emergency services and for certain non-emergency services that patients receive at in-network hospitals or ambulatory surgical facilities.¹

E2SHB 1688 (2022) directs the Office of the Insurance Commissioner (OIC) to evaluate any impact that the BBPA has on nonparticipating provider claims and amounts paid to health care facilities and providers for services subject to the BBPA’s protections under commercial health plans, as follows:

Until December 31, 2030, the office of the insurance commissioner shall contract with the state agency responsible for administration of the database or other organizations biennially beginning in 2022, for an analysis of commercial health plan claims data to assess any impact that chapter 48.49 RCW or P.L. 116-260 have had or may have had on payments to participating and nonparticipating providers and facilities and on the volume and percentage of claims that are provided by participating compared to nonparticipating providers. To the extent that data related to self-funded group health plans is available within funds appropriated for this purpose, the analysis may include such data. The first analysis shall compare 2019 claims data to the most recent full year's claims data. The analysis must be published on the website of the office of the insurance commissioner, with the first analysis published on or before December 15, 2022.

The OIC contracted with ONPOINT Health Data to conduct this analysis. ONPOINT Health Data serves as the contracted data management and analytics vendor for the Washington state All-Payer Health Care Claims Database (WA-APCD). As part of this evaluation, ONPOINT’s work included an analysis to help the OIC understand trends in:

- Utilization of participating and nonparticipating health care facilities and providers of services protected from balance billing under the BBPA.
- The amounts carriers paid to participating and nonparticipating health care facilities and providers for services protected from balance billing under the BBPA.

This analysis provides data on the trends seen between calendar year 2019 and calendar year 2021 for the items noted above. Given that other unknown variables may have influenced these trends, the OIC cannot definitively conclude that changes described in this analysis were a direct result of the BBPA’s enactment.

¹ The scope of services protected from balance billing was expanded in [E2SHB 1688](#), enacted 2022 to align the Balance Billing Protection Act with the federal No Surprises Act.

In 2022, the Washington state Legislature enacted [E2SHB 1688 \(Chap. 263, Laws of 2022\)](#). This new law, which went into effect on March 31, 2022, expands the scope of services protected from balance billing to align with those protected under the federal [No Surprises Act](#). This report addresses services that were subject to balance billing protections under the original BBPA.

Methods (prepared by ONPOINT Health Data)

The analysis focused on changes in the following two key areas related to services provided by participating and nonparticipating health care facilities and providers:

- (1) The volume of participating and nonparticipating claims for services subject to protection from balance billing under the BBPA.
- (2) The allowed amounts paid for services subject to protection from balance billing under the BBPA.

Specifically, the research sought to identify any changes in the distribution of participating and nonparticipating provider claims volume and allowed amounts paid by service category (e.g., surgical, emergency professional, hospitalist, emergency department), the OIC rating area, county and Current Procedural Terminology (CPT) code. Additionally, ONPOINT examined whether there were differences in those metrics between services subject to the BBPA compared to services outside of BBPA protections.

Data source

The WA-APCD contains administrative claims data that Washington state health plans submit, including data from commercial, Medicaid and Medicare sources. The WA-APCD includes enrollment and claims (i.e., medical, pharmacy, and dental) data, and provides information on services provided, provider locations, diagnoses, procedures, charges, paid amounts and more.

This analysis includes claims from commercial payers for calendar years (CYs) 2019 and 2021. Medicaid and Medicare data were not included. To assess changes in service volumes and payments following adoption of the BBPA, ONPOINT compared CY2019 data (pre-BBPA) to CY2021 data (post-BBPA). Data for CY2020 was excluded from this study due to anomalies in the data caused by the COVID-19 pandemic.

Population: Identifying services from claims data

As an initial step in this study, ONPOINT identified claims for both services subject to protection from balance billing and services outside of BBPA protections (i.e., referred to as “non-balance billing” services). ONPOINT identified an initial pool of claims for inclusion in the study with a reported first service date in the 2019 or 2021 calendar year (i.e., Jan. 1 – Dec. 31). (Note that both CY reporting periods included three months of run-out through March 31 of the following year to capture payments as they were adjudicated). Additionally, only claims processed as primary were included; denied and orphaned claims were excluded. The analysis was limited to commercial claims in the WA-APCD with a

reported payment arrangement indicator that identified a fee-for-service or Diagnosis-Related Group (DRG) basis for the charges. Charge and paid amounts were restricted to only positive amounts (i.e., negative and zero charge/paid amounts were removed). The allowed amount field was calculated by summing the amount paid to the facility or provider by the carrier and any applicable enrollee copay, coinsurance or deductible amounts. Allowed amounts were adjusted for inflation using the Consumer Price Index – CPI-Urban medical care component for the Seattle/Tacoma/Bellevue area from 2019-2020 and 2020-2021. The CPI is established by the U.S. Department of Labor, Bureau of Labor Statistics.

Unique, blinded provider numbers were created to allow data to be presented at the provider level without revealing providers’ National Provider Identifiers (NPIs) or other potentially identifiable information. Rendering provider ZIP codes were used to identify a county and the OIC rating area for each provider. The OIC rating areas are presented in Figure 1. The list of rating areas and counties is provided below in Table 1.

Figure 1. Map of the OIC rating areas

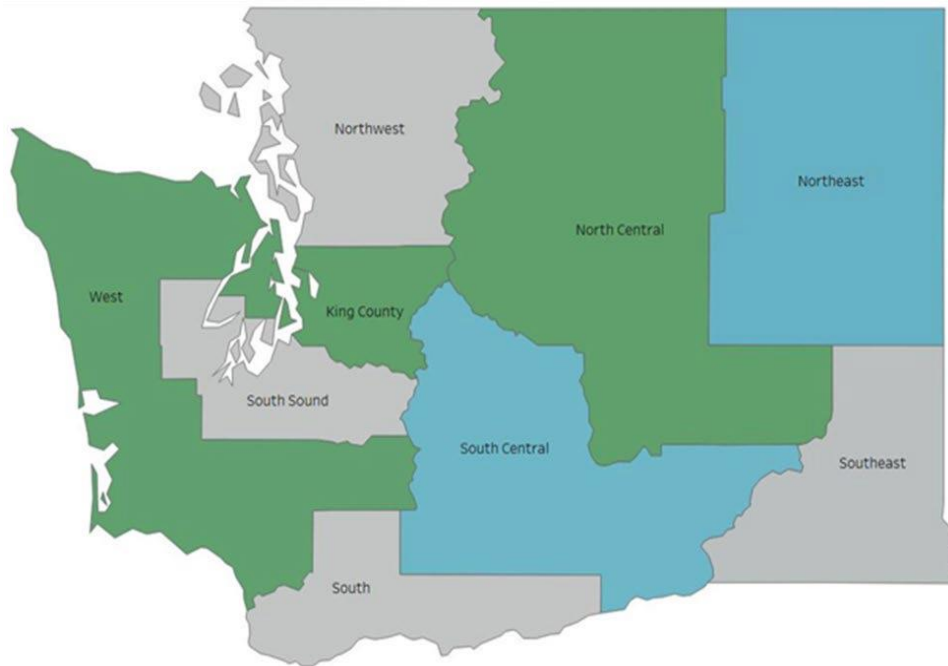


Table 1. The OIC rating areas & Washington counties

OIC rating area	Counties
Area 1: King County	King
Area 2: West	Clallam, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Pacific, Wahkiakum
Area 3: South	Clark, Klickitat, Skamania
Area 4: Northeast	Ferry, Lincoln, Pend Oreille, Spokane, Stevens
Area 5: South Sound	Mason, Pierce, Thurston
Area 6: South Central	Benton, Franklin, Kittitas, Yakima
Area 7: North Central	Adams, Chelan, Douglas, Grant, Okanogan
Area 8: Northwest	Island, San Juan, Skagit, Snohomish, Whatcom
Area 9: Southeast	Asotin, Columbia, Garfield, Walla Walla, Whitman

To identify services subject to protection from balance billing, ONPOINT used the same definitions as provided in the BBPA, which are listed below by service type.

Emergency professional

Emergency department (ED) professional services were identified using ONPOINT's ED flag, which identifies any procedure that occurred in the ED based on the presence of any of the following codes in the claims:

- Place of service code: 23
- Procedure codes: 99281–99288
- Revenue codes: 0450–0459, 0981

Emergency department – facility

Emergency department facility claims were identified based on the following criteria:

- Claim type code: 2
- Revenue codes: 0450–0452, 0459

Surgical & ancillary services

Surgical and ancillary services were restricted to claims for services that met both of the following conditions:

- Place of service: 21–24
- Type of setting: 1, 7, 8, 14

Five categories of surgical and ancillary services were identified using the following CPT codes:

- Anesthesiology: 00100–01999
- Hospitalists: 99217–99226, 99231, 99232, 99234–99236, 99238, 99239
- Lab and pathology: 80047–89398
- Radiology: 70010–79999
- Surgery: 10004–69990

Procedure modifier codes

Procedure modifier codes serve multiple purposes. In some cases, they may simply be informative (e.g., indicating the patient's left or right side), while in other cases, they may affect pricing (e.g., flagging whether a surgeon or their assistant performed the service).

To get the best estimate of what the procedure typically would cost without such adjustments, procedure modifier codes that affect pricing were removed from all calculations. This list of procedure modifier codes included the following: AS, FX, FY, SA, SG, UE, 22, 23, 25, 47, 50– 56, 62, 66, 73, 78, 80–82.

“Non-balance billing” services

Because services protected from balance billing occur in hospitals or ambulatory surgical facilities under the BBPA, only professional services are applicable for comparing services subject to BBPA protections to those services that are not. To identify the comparison group for professional non-balance billing services, ONPOINT selected professional claims and CPT codes that were not included in any of the balance billing categories.

Evaluating impact

To evaluate the impact of BBPA on participating and nonparticipating provider utilization and allowed amounts, ONPOINT summarized key metrics, including count of claims, median allowed amount and the sum of allowed amount by specific strata. These strata included network indicator, service category (e.g., radiology, ED facility), county, the OIC rating area and CPT code. Each metric was calculated separately for each grouping (e.g., the median of allowed amount was calculated by network indicator for the network indicator grouping).

To evaluate participating and nonparticipating provider utilization, ONPOINT calculated the percent of claims that were submitted by participating and nonparticipating providers for CY2019 and CY2021 separately.

To evaluate payments, ONPOINT calculated the median allowed amount by year and given strata. Additionally, ONPOINT calculated the ratio of allowed amount for participating provider to nonparticipating provider claims in each year. For example, the median allowed amount for participating provider services in 2019 versus the median allowed amount for nonparticipating provider services in 2019. A ratio higher than 1.0 indicates higher payments for participating provider services compared to nonparticipating provider services.

To inform aggregate reporting, ONPOINT also calculated metrics such as median allowed amount and the ratio of participating provider to nonparticipating provider services for the following totals shown here:

Balance Billing:

- All services
- Professional services only
- Facility services only
- All services- ED facility excluded
- All services - lab/pathology excluded
- All services – lab/pathology and ED facility excluded

Non-Balance Billing:

- All services (any setting)
- Hospital ambulatory surgical center services only

Glossary

- Allowed amount: Sum of total payments made by the member and health plan.
- BBPA: Balance Billing Protection Act, codified at Chap. 48.49 RCW.
- BB: Services subject to protection from balance billing under the BBPA.
- BB facility: Claims for services performed at an emergency facility or radiology facility in a hospital or ambulatory surgical facility.
- BB professional services: Services provided by health care professionals providing services subject to balance billing protections, e.g. radiology, anesthesiology, lab/pathology, hospitalist, surgical, emergency physician.
- HASC: Denotes claims with a place of service of either a hospital or ambulatory surgical facility.
- "Hospitalist": A physician who often earns a residency in internal medicine and is certified in hospital medicine. Practice is confined to a hospital setting.
- Non-BB professional HASC: Non-balance billing professional services performed at a hospital or ambulatory surgical center.
- Non-BB professional any: Non-balance billing professional services performed in any setting.

Lab/pathology services

When analyzing claims data for lab and pathology services, ONPOINT found the median allowed amount for 2019 nonparticipating provider claims was \$7, as compared to \$39 in 2021. In contrast, median allowed amounts were in the \$60 range for participating provider services in both years. The distribution of the data was examined.

In 2019, for nonparticipating provider services, there was a higher number of claims with \$6-\$7 amounts. For example, the 5th, 10th and 25th percentiles for 2019 nonparticipating provider services were all \$6. The distribution suggests higher volume of \$6 and \$7 claims for 2019 out-of-network services than any other groupings. Therefore, due to the high volume of \$6 and \$7 claims compared to other groupings, the 2019 nonparticipating provider grouping has a much lower median allowed amount than other groupings. In addition, the number of nonparticipating provider claims for these services dropped from 15,208 in CY 2019 to 1,089 in CY 2021. Given this atypical difference in both changes in the number of nonparticipating provider claims and changes to allowed amounts, in several places throughout the report, aggregate figures exclude lab/pathology claims.

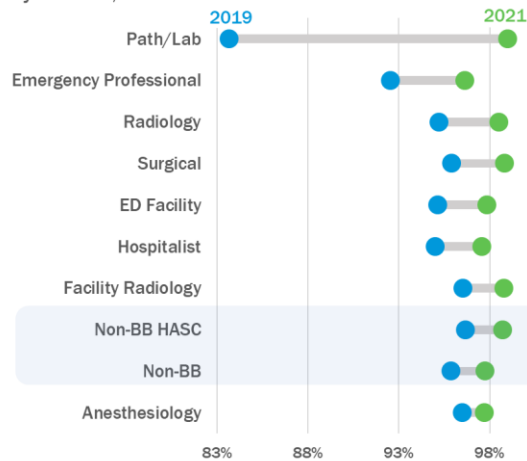
Claims volume/participating provider – nonparticipation provider utilization

Exhibits 1 through 15 illustrate findings related to changes in the volume of claims paid to participating and nonparticipating providers between CY 2019 and CY 2021. Over the two-year period, in the aggregate, a greater share of claims were paid to participating providers. However, there was variability in the change by geographic region and by provider specialty and facility type, especially when broken out by geographic region.

Exhibit 1 Increase in claims 2019 to 2021

All service categories saw an increase in participating provider claims from 2019 to 2021 (and a corresponding decrease in nonparticipating provider claims).

The percent of participating provider claims by service, 2019 to 2021.



The percent of nonparticipating provider claims by service, 2019 to 2021.

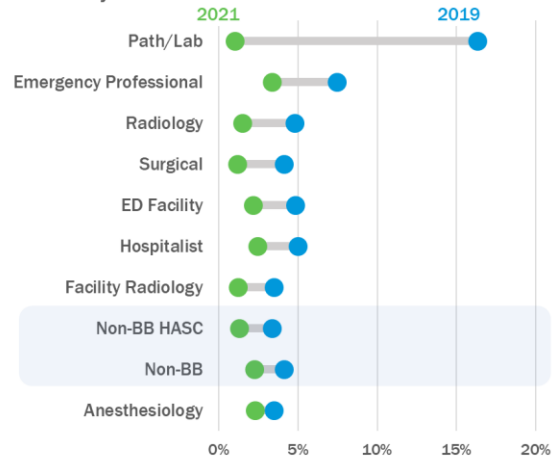
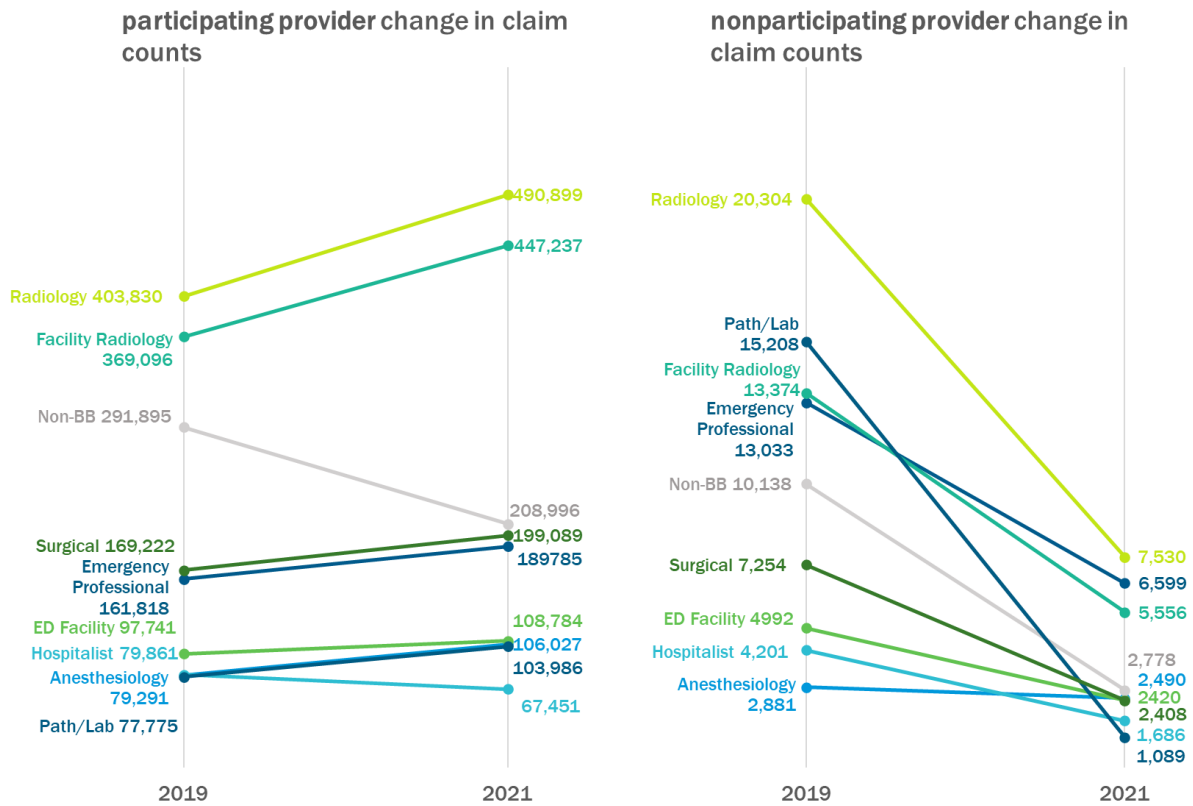


Exhibit 2 Change in claims volume 2019 to 2021

Change in claims volume for services provided by participating and nonparticipating providers, 2019 - 2021.



Across categories, generally we see patterns of increasing participating provider claims, and declining use of nonparticipating providers.

Exhibit 3 Percent change in claim volume 2019 to 2021

The percent change in claim volume for **participating provider** and **nonparticipating provider** claims by service from 2019 to 2021.

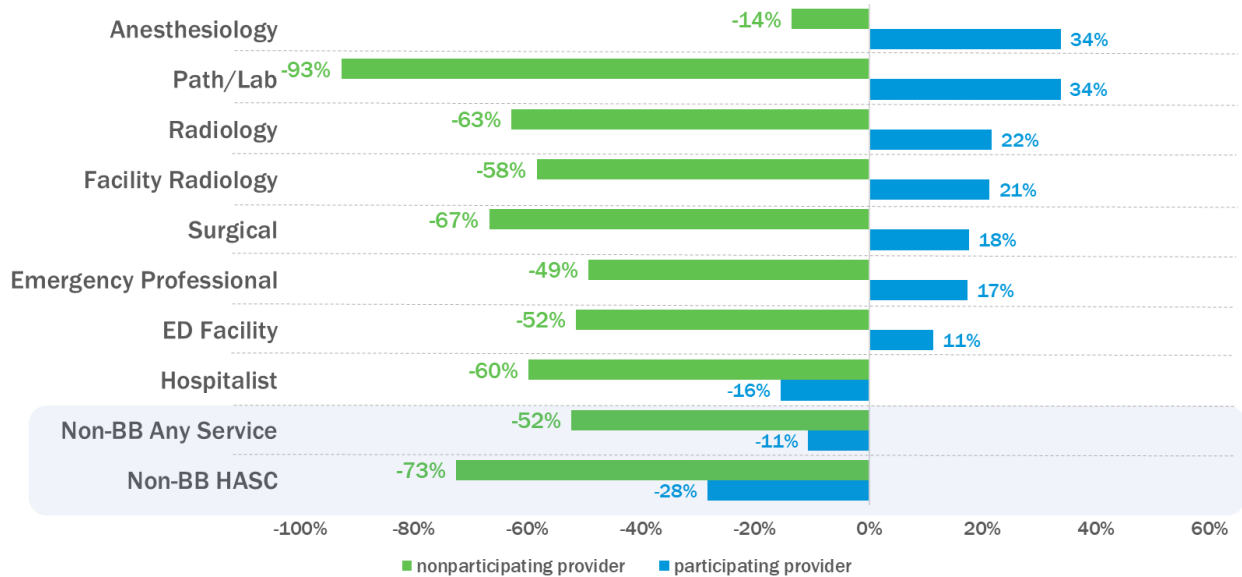


Exhibit 3 shows the contrasting percent change in participating and nonparticipating provider claims by category. For most services, participating provider utilization increased. Across all categories, nonparticipating provider declined.

All regions saw an increase in participating provider claims from 2019 to 2021 (and a corresponding decrease in nonparticipating provider claims).

Exhibit 4 The percent change in claims volume by region

The percent change in volume of **participating provider** and **nonparticipating provider** claims by region.

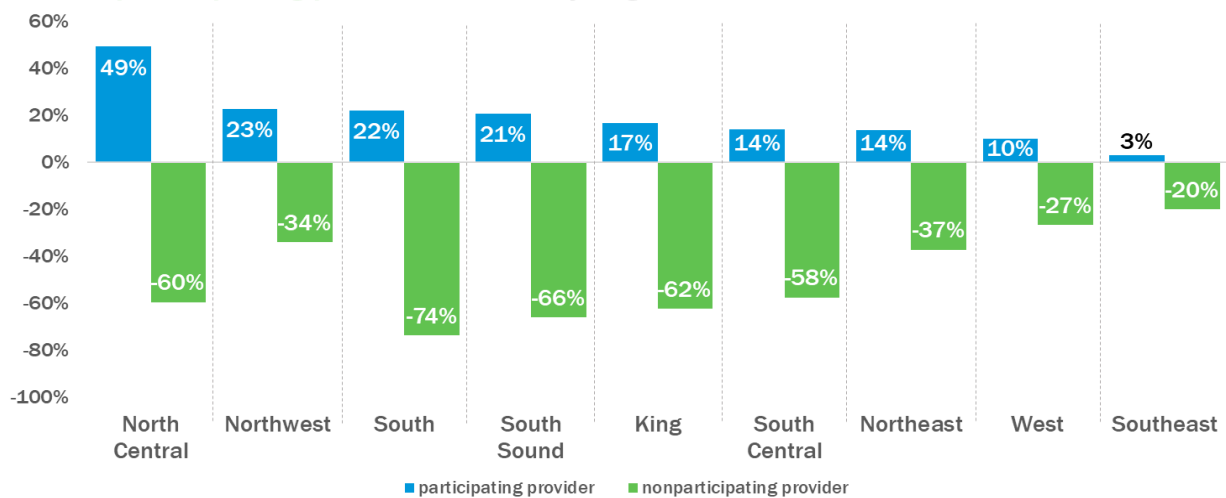
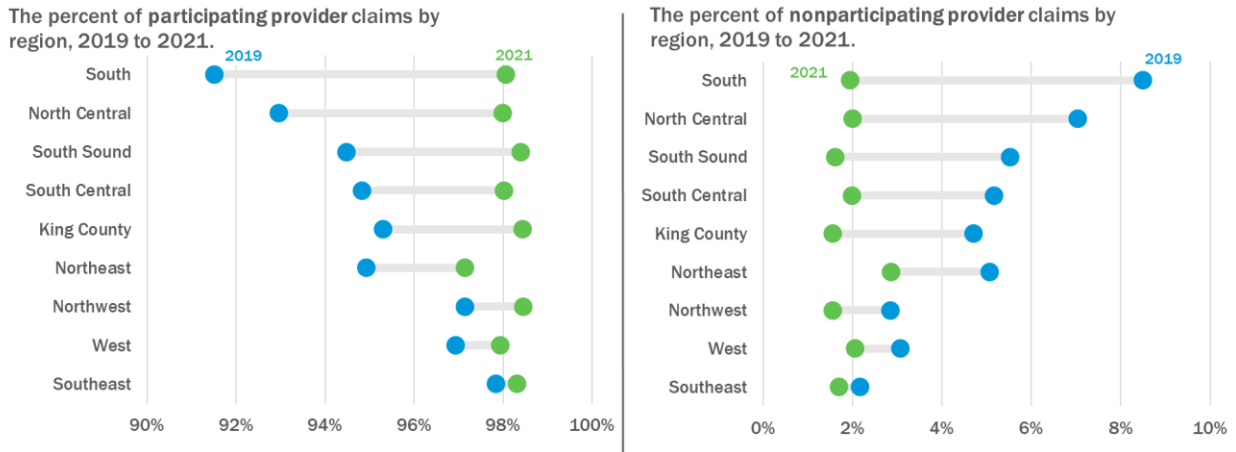


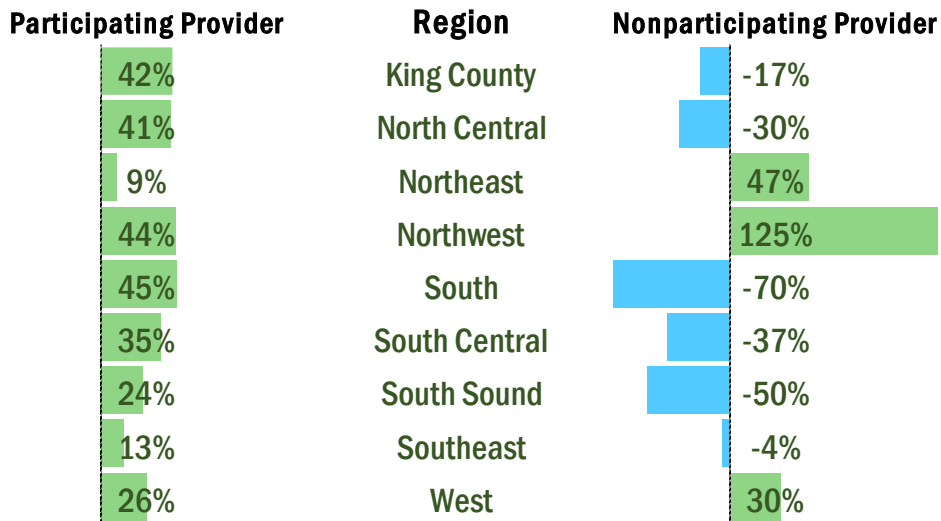
Exhibit 5 All regions saw an increase

All regions saw an increase in participating provider claims from 2019 to 2021 (and a corresponding decrease in nonparticipating provider claims).



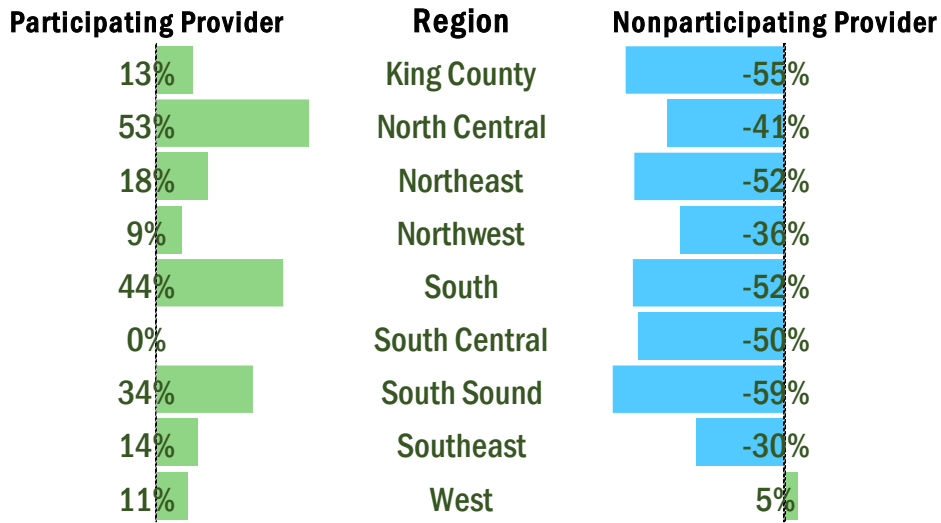
Exhibits 6 to 15 show the changes in participating and nonparticipating provider claims volume, by provider specialty and for hospital emergency department and radiology facility claims, by geographic region.

Exhibit 6 Percent change in claims volume for anesthesiology claims
Percent change in claims volume for anesthesiology claims from 2019 to 2021.



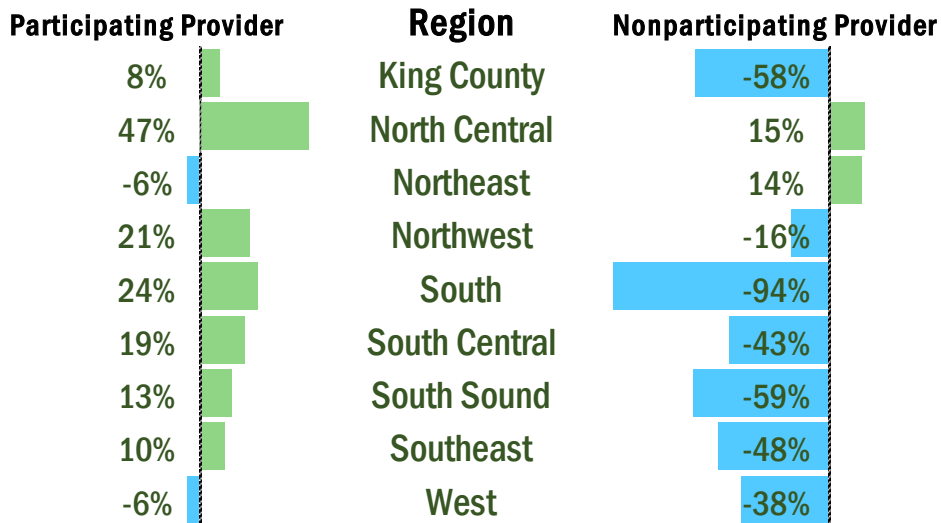
All regions showed an increase in participating provider anesthesiology claims volume from 2019 to 2021. Most regions show a decline in nonparticipating provider use except Northeast, Northwest and West regions.

Exhibit 7 Percent change in claims volume for emergency professional claims
Percent change in claims volume for emergency professional claims
from 2019 to 2021.



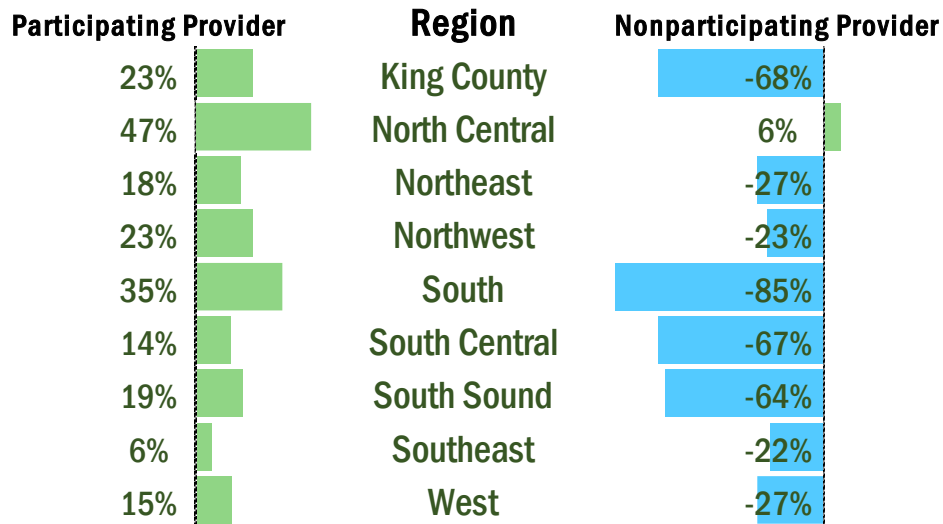
All regions showed an increase in participating provider claims for Emergency Professional services. Similarly, all regions except West showed a decline in nonparticipating provider use. The regions with larger declines in nonparticipating provider use and the largest increases in participating provider use are: North Central, South and South Sound.

Exhibit 8 Percent change in claims volume for ED facility claims
Percent change in claims volume for ED facility claims from 2019 to
2021.



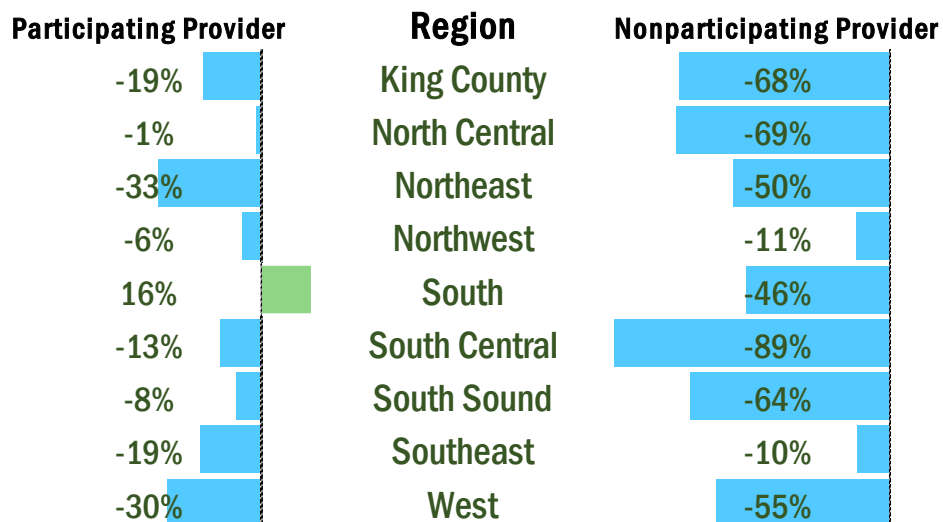
All but two regions, Northeast and West, showed an increase in participating ED facility claims. Similarly, all but two regions showed a decline in nonparticipating facility use. Northeast is the common region between the two findings.

Exhibit 9 Percent change in claims volume for facility radiology claims
Percent change in claims volume for facility radiology claims from 2019 to 2021.



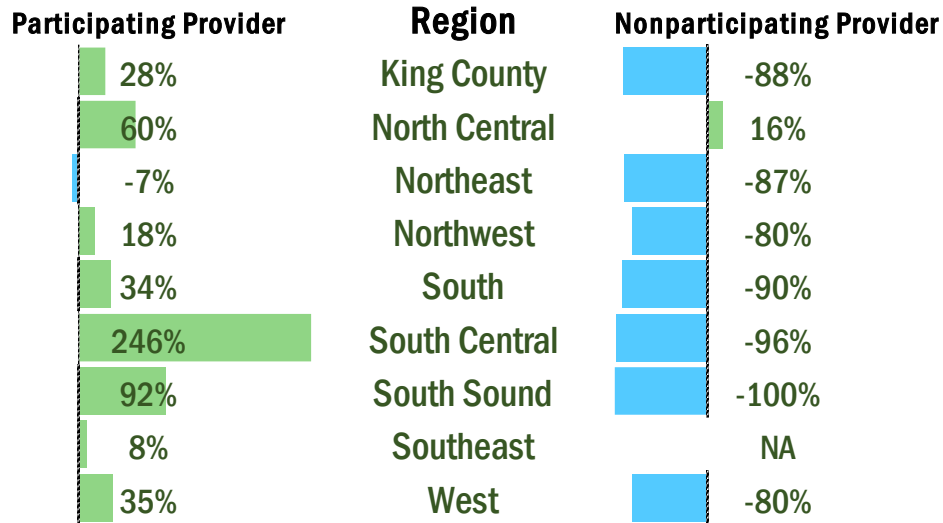
All regions showed an increase in participating facility claims for radiology services at facilities. All regions except North Central showed a decline in nonparticipating facility use for the same services.

Exhibit 10 Percent change in claims volume for hospitalist claims
Percent change in claims volume for hospitalist claims from 2019 to 2021.



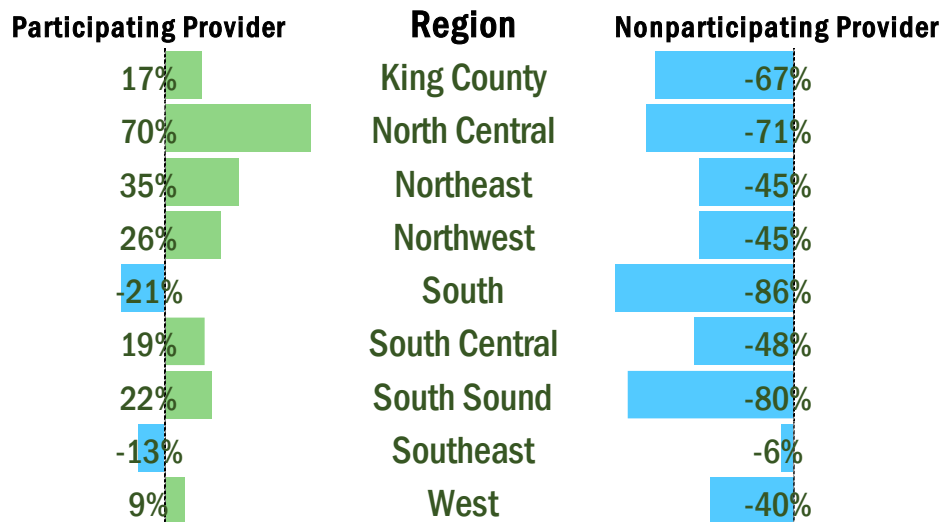
For hospitalist services, we see a decline in both participation provider and nonparticipating provider use across regions. This may be due to an overall decline in hospitalist services.

Exhibit 11 Percent change in claims volume for pathology/laboratory claims
Percent change in claims volume for pathology/laboratory claims
from 2019 to 2021.



In general, participating provider claims for pathology/lab services increased while nonparticipating provider claims volume declined.

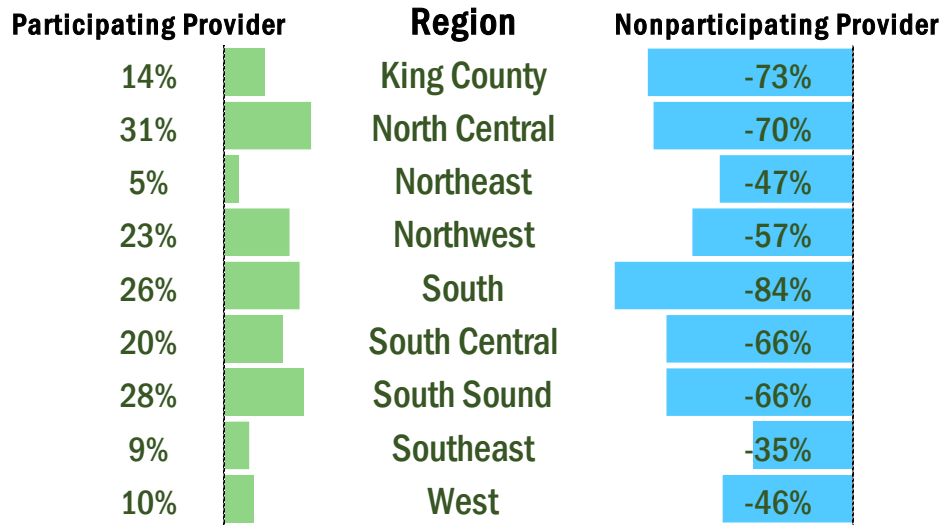
Exhibit 12 Percent change in claims volume for radiology claims
Percent change in claims volume for radiology claims from 2019 to
2021.



All but two regions showed an increase in participating provider professional radiology claims volume. All regions showed a decline in nonparticipating provider professional radiology claims.

Exhibit 13 Percent change in claims volume for surgical claims

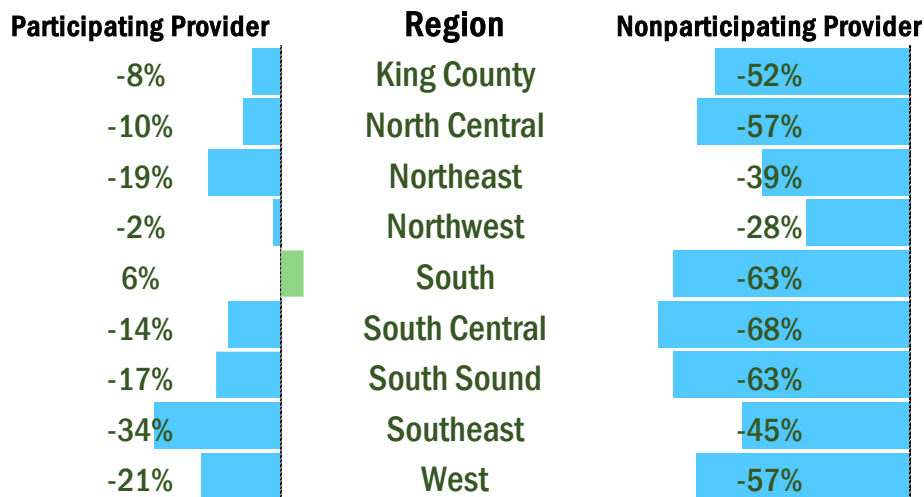
Percent change in claims volume for surgical claims from 2019 to 2021.



Across all regions, surgical procedures showed an increase in participating provider claims volume coupled with a decline in nonparticipating provider claims volume.

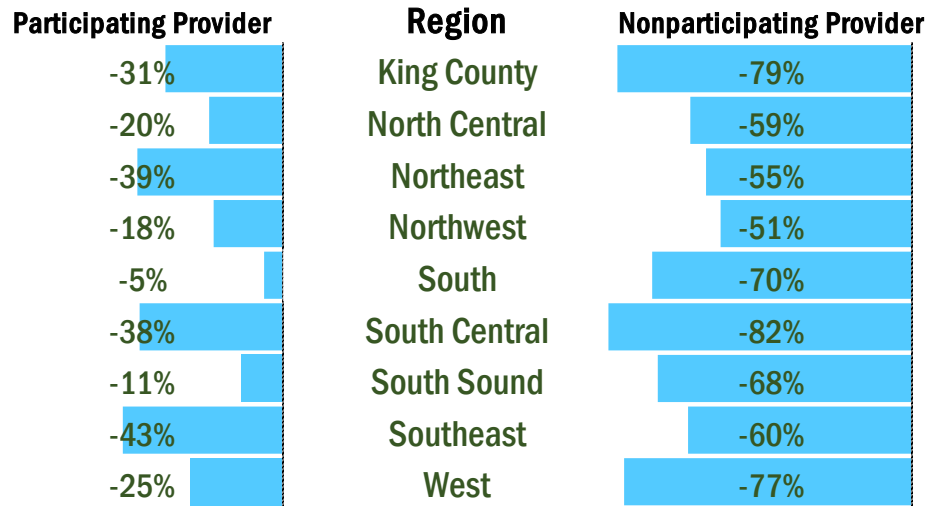
Exhibit 14 Percent change in claims volume for non-balance billing claims

Percent change in claims volume for non-balance billing claims from 2019 to 2021.



Across all regions except one, there was a total decline in nonparticipating services performed by health professionals in any setting for services not subject to balance billing protections, with declines in both participating provider and nonparticipating provider claims volume from 2019 to 2021. Because these are services not subject to balance billing protections, these declines would have been associated with other dynamics.

Exhibit 15 Percent change in claims volume for non-balance billing HASC claims
Percent change in claims volume for non-balance billing HASC claims
from 2019 to 2021.



This exhibit shows changes in claims volume for professional services provided in hospitals and ambulatory surgical facilities that were not subject to balance billing protections. Across all regions, there was a decline in nonparticipating provider services – with a decline in both participating and nonparticipating provider claims volume.

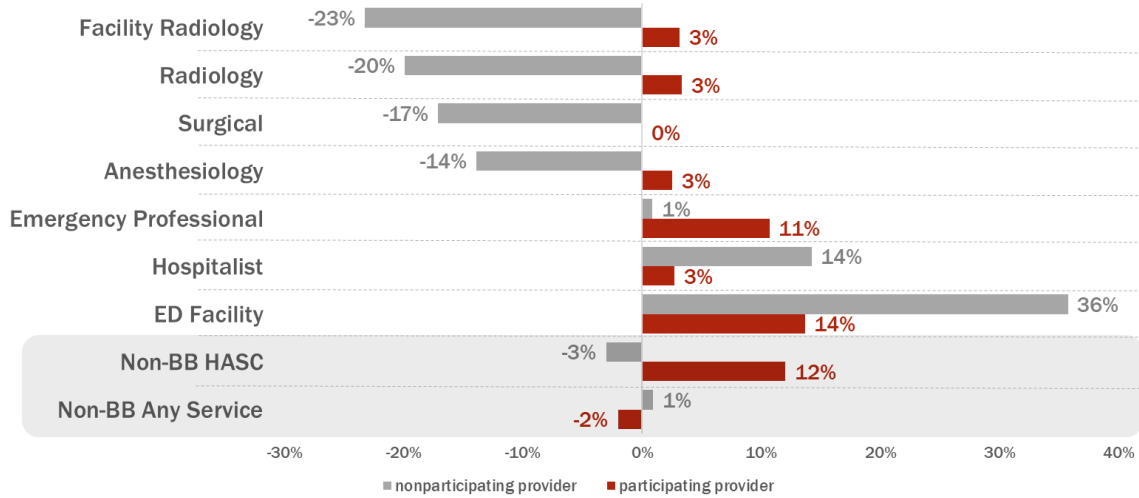
Changes in median allowed amounts

Exhibits 16 through 30 illustrate findings related to changes in allowed amounts paid to participating and nonparticipating providers and facilities between CY 2019 and CY 2021. The amounts in these exhibits have been adjusted for inflation using the CPI-Urban medical care component from 2019-2020 and 2020-2021. Thus, any increases in allowed amounts are in excess of these inflation adjustments.

Over the two-year period, among the services subject to balance billing protection, participating emergency department facility and participating emergency physician allowed amounts increased significantly more than other services. However, as seen with respect to claims volume, there are notable differences across regions and across provider types by region.

Exhibit 16 Percent change in median allowed amounts

The percent change in median allowed amounts for **participating provider** and nonparticipating provider claims by service from 2019 to 2021.



The median allowed amount for services subject to balance billing protections provided by participating providers increased from 2019 to 2021, with the most significant increases in emergency professional and emergency department facility claims. With the exception of hospitalist, emergency professional and emergency department facility services, median allowed amounts for nonparticipating providers decreased.

Exhibit 17 Professional services median allowed amounts

Participating provider and nonparticipating provider professional services median allowed amounts

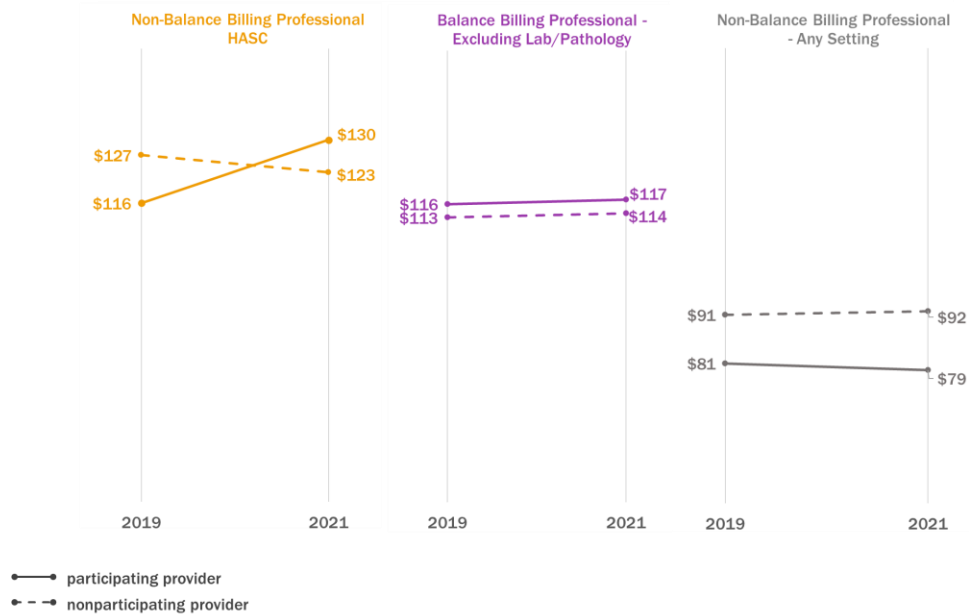


Exhibit 18 ED and radiology facility median allowed amounts

Participating provider and nonparticipating provider facility median allowed amounts

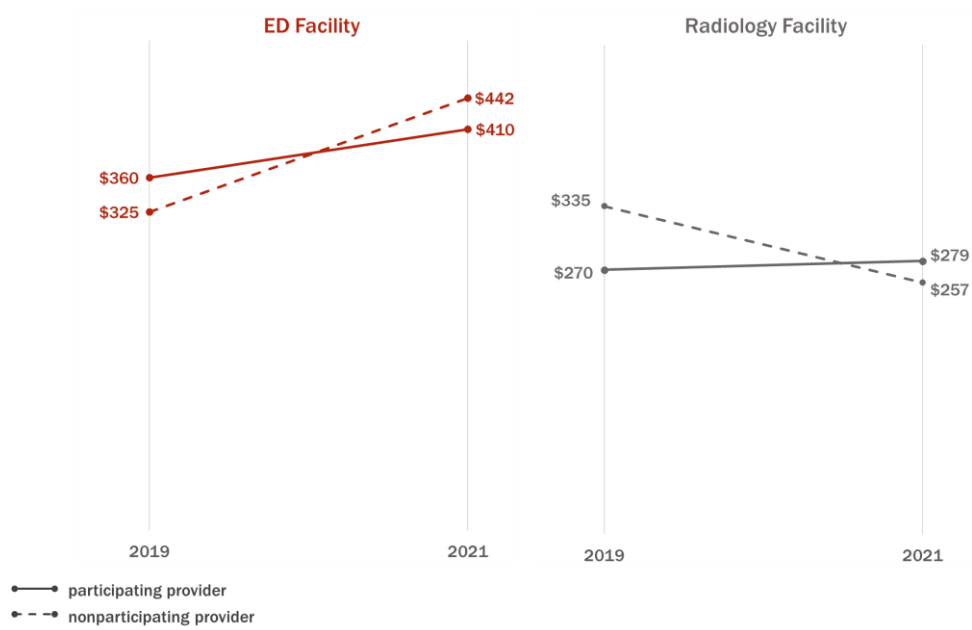
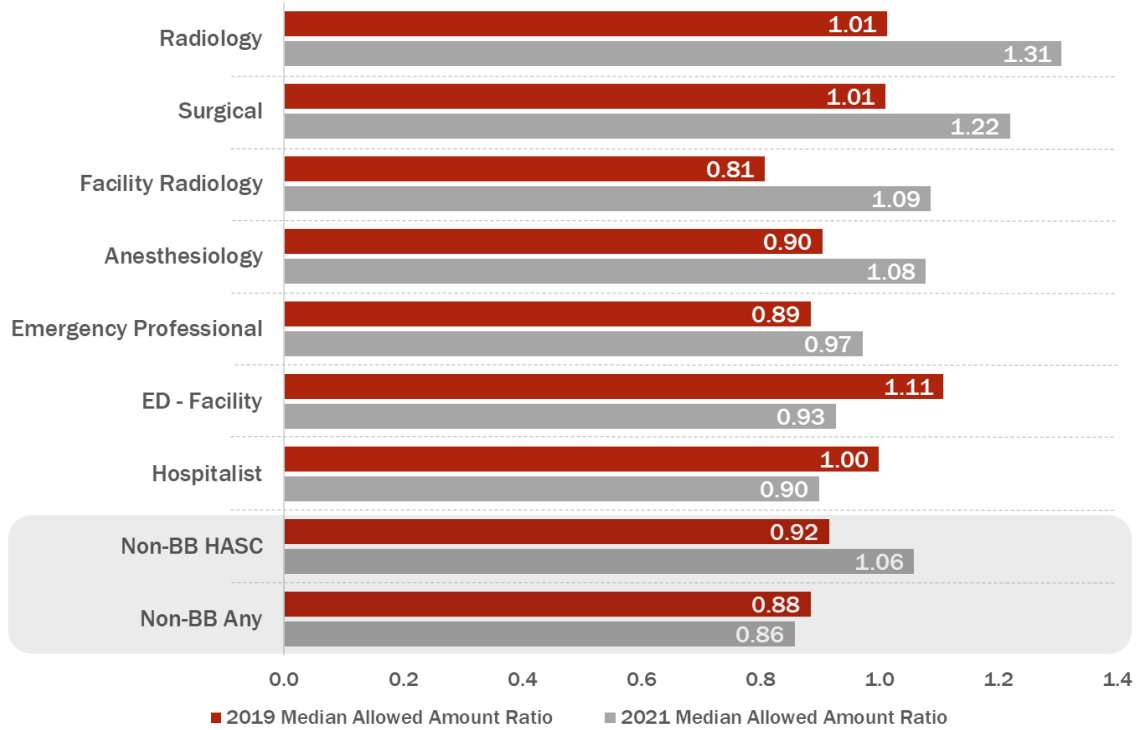


Exhibit 19 shows changes in median allowed amounts across service and facility types expressed as ratios, rather than the percentages used in Exhibit 16.

Exhibit 19 Ratios for allowed amounts

Ratios for participating provider to non participating provider allowed amounts, 2019 compared to 2021.



For services subject to balance billing protections, there was substantial variation in changes to median allowed amounts across regions. The exhibits below show regional variation in median allowed amounts by professional and facility service categories.

Exhibits 20 to 28 show the percentage change in median allowed amounts paid to participating and nonparticipating providers, by provider specialty, hospital emergency department facility and radiology facility, by geographic region.

Exhibit 20 Median allowed amount percent change

The percent change in median allowed amounts for **participating provider** and nonparticipating provider claims by region from 2019 to 2021.

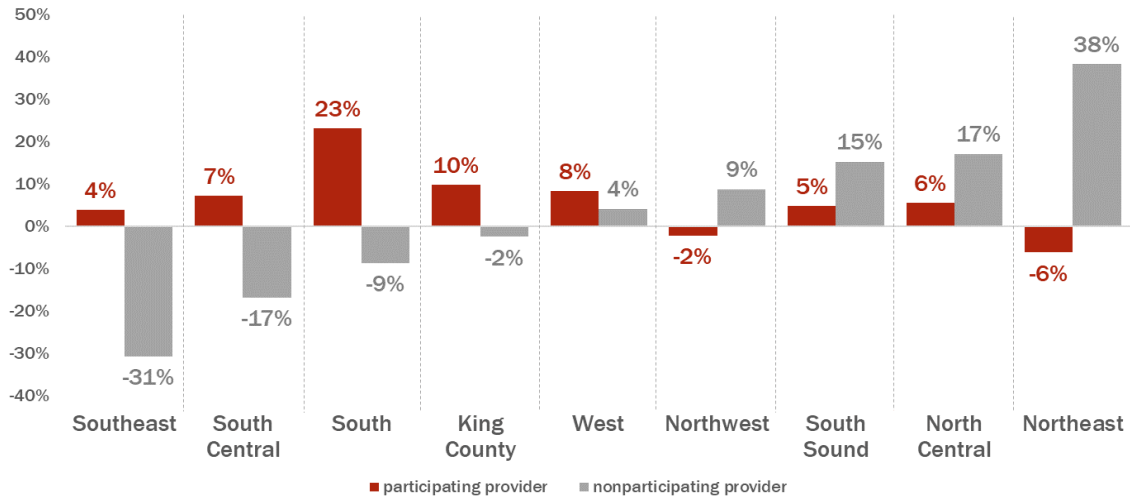
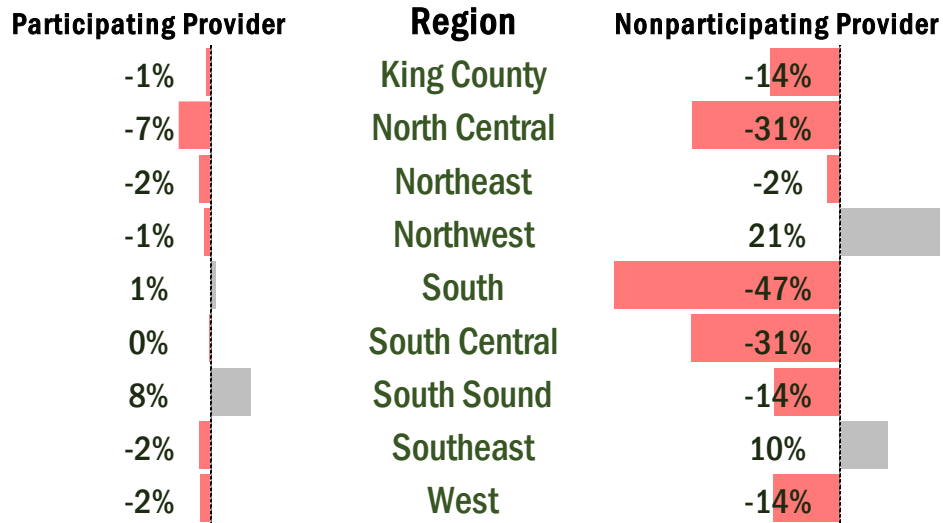


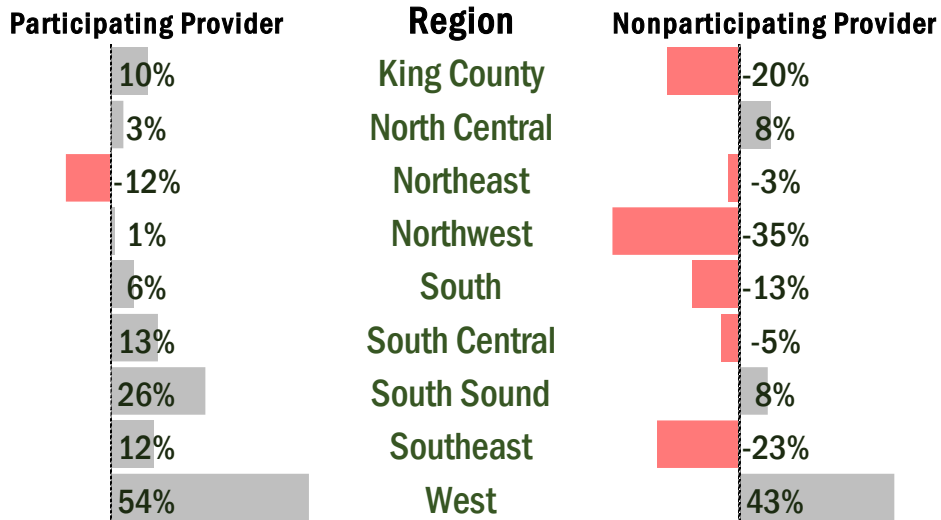
Exhibit 21 Percent change in median allowed amounts for anesthesiology claims

Percent change in median allowed amounts for **anesthesiology** claims from 2019 to 2021.



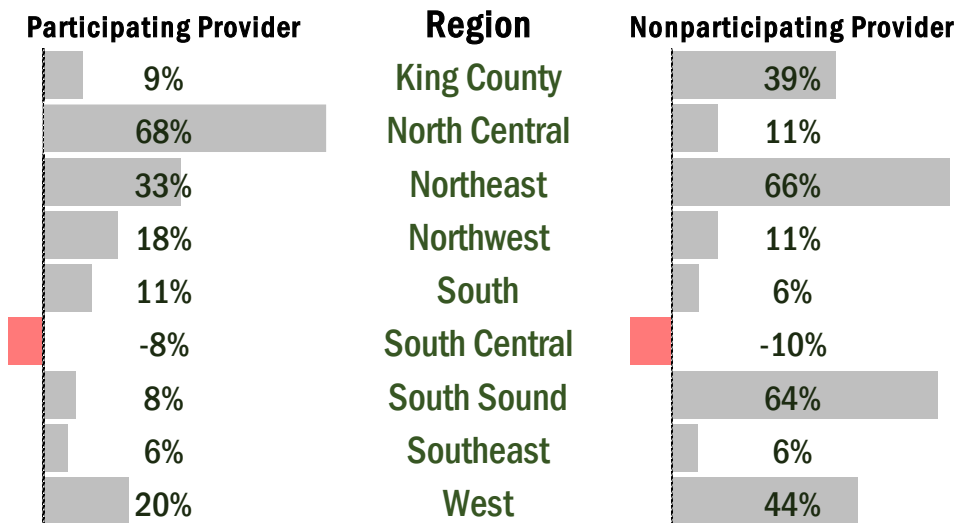
Generally, across regions, anesthesiology services showed a decline in median allowed amounts for both participating and nonparticipating provider services. The largest declines were in nonparticipating services.

Exhibit 22 Percent change in median allowed amounts for emergency professional claims
Percent change in median allowed amounts for emergency professional claims from 2019 to 2021.



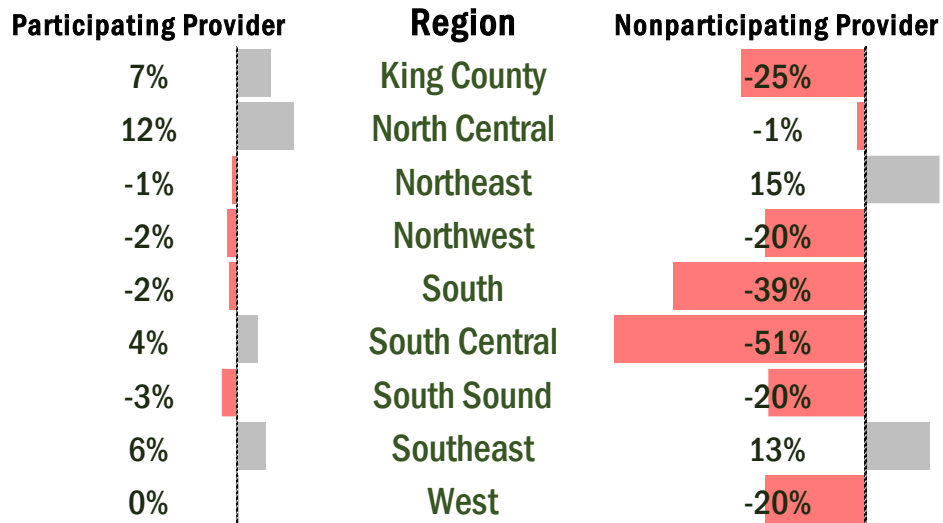
For emergency professional, participating provider median allowed amounts increased across all regions except one, Northeast. For nonparticipating emergency physician services, nonparticipating services showed both increases and decreases, with an increase of 42% in the West region and a decline of 35% in the Northwest region.

Exhibit 23 Percent change in median allowed amounts for ED facility claims
Percent change in median allowed amounts for ED facility claims from 2019 to 2021.



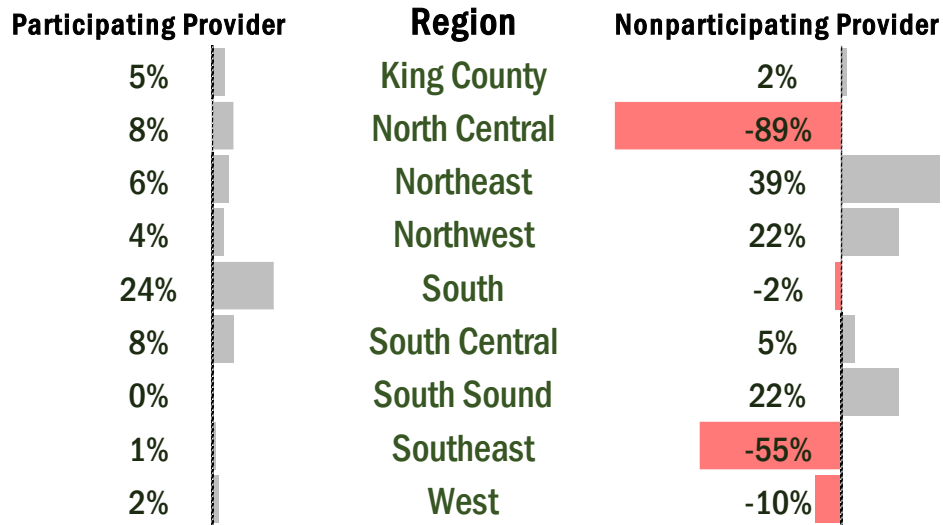
For ED facility services, all counties except South Central showed an increase in participating facility and nonparticipating facility median allowed amounts. The South Central region was the only region to show a decline in participating and nonparticipating ED facility median allowed amounts.

Exhibit 24 Percent change in median allowed amounts for facility radiology claims
Percent change in median allowed amounts for facility radiology claims from 2019 to 2021.



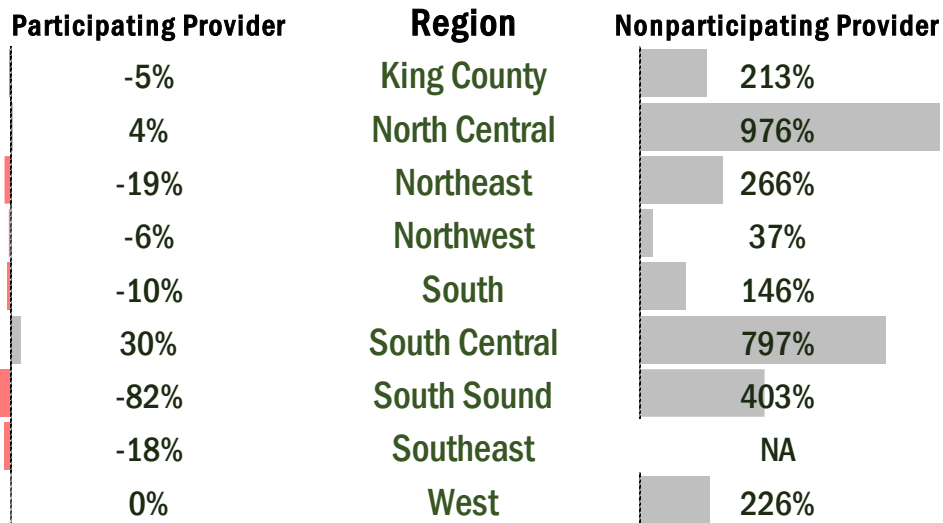
For radiology facility services, with the exception of King County and the North Central region, there were minor changes in participating facility allowed amounts. Nonparticipating facility allowed amounts decreased for all regions other than Northeast and Southeast.

Exhibit 25 Percent change in median allowed amounts for hospitalist claims
Percent change in median allowed amounts for hospitalist claims
from 2019 to 2021.



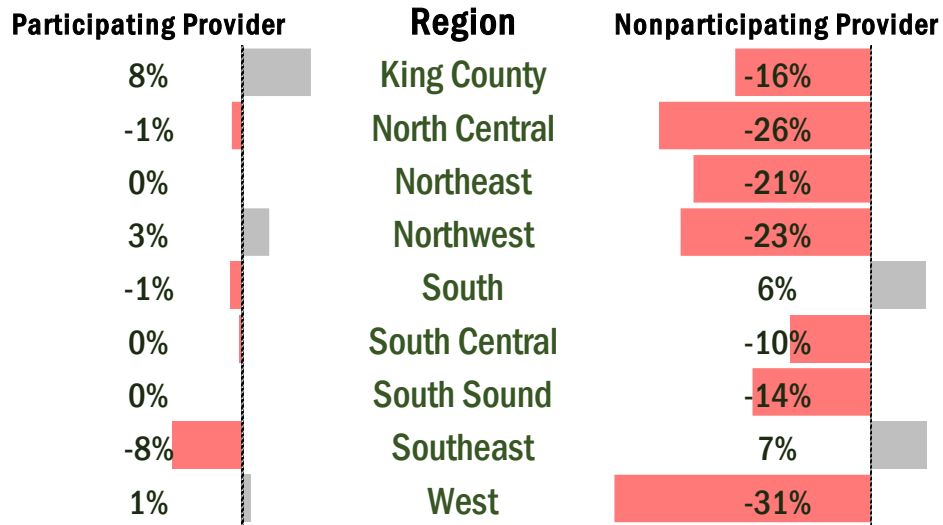
For hospitalist services, all regions showed an increase in participating provider median allowed amounts, with the South region experiencing a significantly greater increase. Four out of nine regions showed a decline in nonparticipating provider median allowed amounts.

Exhibit 26 Percent change in median allowed amounts for pathology/laboratory claims
Percent change in median allowed amounts for
pathology/laboratory claims from 2019 to 2021.



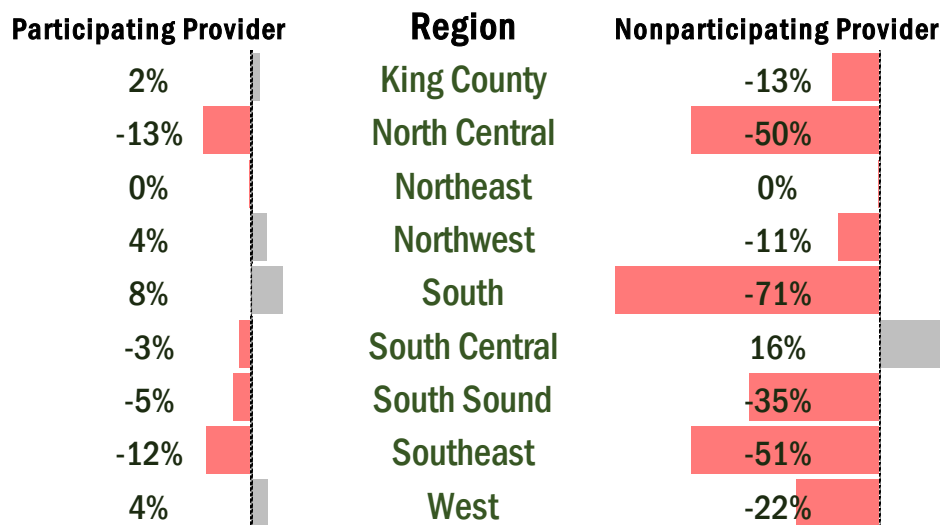
There is substantial variability in trends in allowed amounts for pathology/lab services for the reasons noted on page 7 of this report.

Exhibit 27 Percent change in median allowed amounts for radiology claims
Percent change in median allowed amounts for radiology claims
from 2019 to 2021.



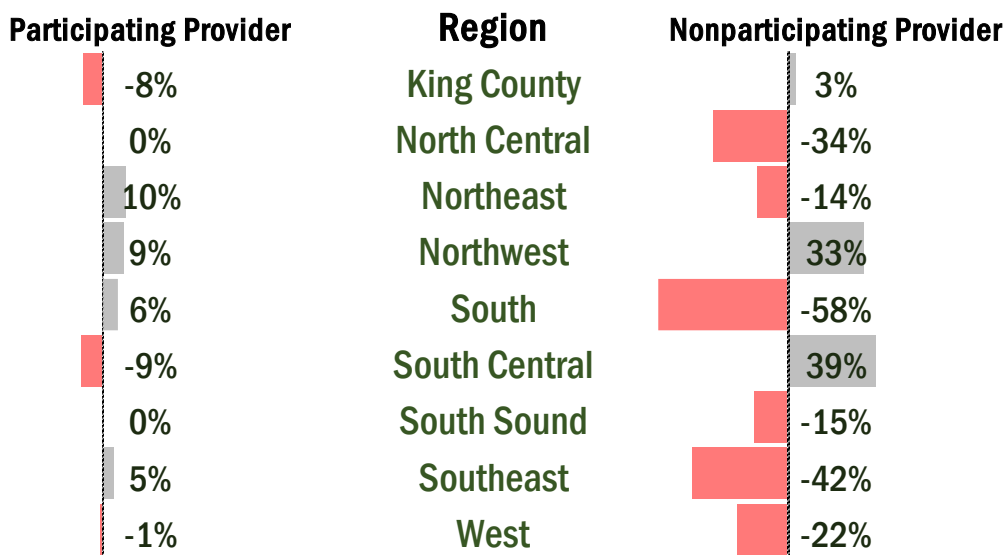
Professional radiology services saw large declines in nonparticipating provider median allowed amounts in 2021 from 2019. There were minimal changes to participating provider median allowed amounts, with the percent changes spanning -8% to +8%.

Exhibit 28 Percent change in median allowed amounts for surgical claims
Percent change in median allowed amounts for surgical claims from
2019 to 2021.



Similar to the professional radiology trends, professional surgical results showed large declines in nonparticipating provider median allowed amounts, and similar shifts in both directions in participating provider median allowed amounts.

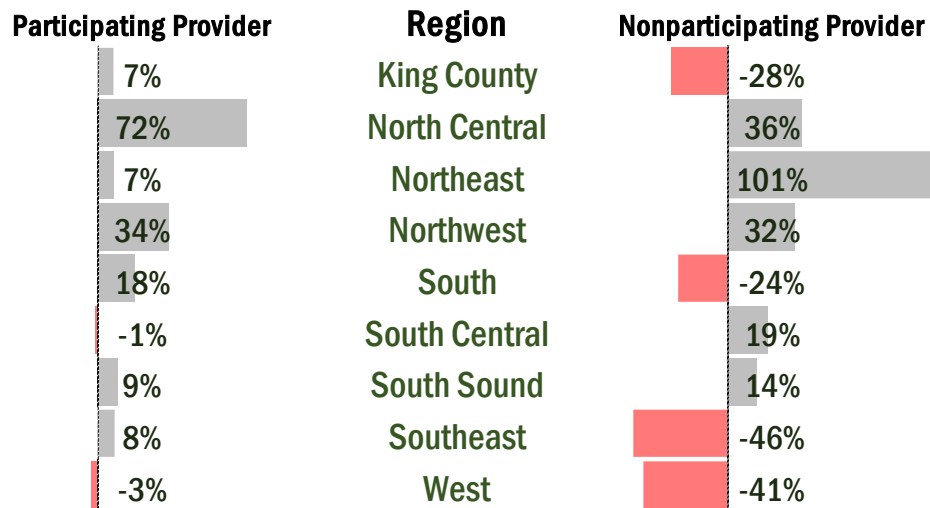
Exhibit 29 Percent change in median allowed amounts for non-balance billing claims
Percent change in median allowed amounts for non-balance billing claims from 2019 to 2021.



For services not subject to balance billing protections provided in any setting, one third of regions showed unchanged or decreased participating provider median allowed amounts. Two-thirds of regions showed a decline in nonparticipating provider median allowed amounts.

Exhibit 30 Percent change in median allowed amounts for non-balance billing HASC claims

Percent change in median allowed amounts for non-balance billing HASC claims from 2019 to 2021.



For services not subject to balance billing protections performed at hospitals and ambulatory surgical centers, seven out of nine regions showed an increase in median allowed amounts paid to participating providers from 2019 to 2021. There was considerable variability in the percent change in median allowed amount between regions for nonparticipating provider services. For example, the Northeast region showed an increase of 101%, while the Southeast region showed a decline of 46% in nonparticipating provider median allowed amounts.

Discussion

As noted in the purpose and background section of this report, other unknown variables may have influenced the trends found in the claims data. The variability in trends among provider specialty types and across geographic regions may be impacted by provider supply and concentration. In addition, given the substantial decrease in the number of claims from nonparticipating providers, median allowed amounts for nonparticipating providers can be impacted more significantly than those for participating provider claims. This was most evident with respect to lab/pathology claims, as described above. The OIC cannot definitively conclude that changes described in this analysis were a direct result of the BBPA’s enactment.

RCW 43.341.100 directs the OIC to produce an update to this report in 2024 and biennially until 2030. Given the enactment of E2SHB 1688 (Chapter 263, Laws of 2022), future reports will encompass a broader range of services that are subject to balance billing protections. Future reports also will provide an opportunity to examine trends over time.

Conclusion

In conclusion, we see a shift in volume from nonparticipating to participating providers for services subject to balance billing protections and a decline in any utilization for nonparticipating provider and facility services. There was considerable variability in changes in the median allowed amount for participating and nonparticipating provider and facility services, with the largest declines in nonparticipating provider services. Additionally, in-network median allowed amounts generally increased across both participating and nonparticipating services by category.

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