

• WEBINAR •

THE NO SURPRISES ACT

How to Navigate the End of Surprise
Medical Billing Practices





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Our Focus

The No Surprises Act

- ✓ Background & Overview of NSA
- ✓ What Applies to Which Organizations
- ✓ Federal Requirements for Compliance
- ✓ NSA Enforcement Must-Knows
- ✓ HCP Recommendations & Resources

Our Focus

The No Surprises Act

33 estimated states
operate with balance billing
regulations that vary

- **Covering Federal Requirements Only**
- **Please obtain information from your state-level regarding this Act.**



Background & Overview

The No Surprises Act

Background of the No Surprise Act (NSA)

DEC 27, 2020



The No Surprises Act was signed into law.

JUL 1, 2021



The interim final rule was issued and contained several provisions of the No Surprises Act.

SEP 30, 2021



A second Interim Final Rule was issued on, implementing additional parts of the No Surprises Act.

JAN 1, 2022



The requirements of the No Surprises Act for Providers, Facilities, and Providers of Air Ambulance Services went into effect on.

No Surprises Act Overview



Provisions that apply to providers, facilities, and providers of air ambulance services include:

- cost-sharing rules
- prohibitions on balance billing for certain items and services
- notice and consent requirements
- requirements related to disclosures about balance billing protections

No Surprises Act Overview

What applies to the uninsured?

- ✓ The Good Faith Estimate (GFE) requirement
- ✓ The Patient-Provider Dispute Resolution (PPDR) process

What does not apply?

- Medicare Beneficiaries
- Medicaid Beneficiaries
- Other federal programs



What Do You Need to Know?



Who does
the NSA
apply to?



What are the
notice
requirements?



What is a
Good Faith
Estimate?



How do we
obtain
consent?



How do we
settle
disputes?

Three Types of Care

How to Identify a Healthcare Organization



Emergency Services Care



Non-Emergency Care



Emergency Stabilization Care

Emergency Services

Care provided in:

- Emergency departments of hospitals
- Independent freestanding emergency departments.



Emergency Care does not include services provided in a physician's office, such as Doctor or Orthopedics, Doctor of Optometry, or Freestanding Imaging Center.

Non-Emergency Care

Care provided in:

- Hospitals
- Hospital outpatient departments
- Critical access hospitals
- Ambulatory surgical centers



Non-Emergency Care does not include services provided in a physician's office, such as Doctor or Orthopedics, Doctor of Optometry, or Freestanding Imaging Center.

Post-Emergency Stabilization

Post-Emergency Stabilization is emergency care until A Physician determines that the patient can:

- Travel safely to another in-network facility using non-medical transport
- Verify that the facility is available and will accept
- Ensure that the transfer will not cause unreasonable burdens.



NSA Applicability

What Applies to Which Organizations?

Does the “No Surprises Act” Apply To You?

	Facility	Provider	Does NSA Apply?
Emergency Services	Non-Participating Emergency Facility	Non-Participating Provider	✓
Non-Emergency Services	Participating Facility	Non-Participating Provider	✓
	Non-Participating Facility	Non-Participating Provider	✓

NSA Requirements

Compliance Help

Does the “No Surprises Act” Apply To You?

Healthcare Providers & Facilities are required to:

- ✓ Make the notice publicly available
- ✓ Post on a public website of the provider or facility (if applicable)
- ✓ Provide a one-page notice in clear & understandable language

One-Page Notice Requirements:

1. Restrictions on providers & facilities regarding balance billing in certain circumstances
2. Any state law protections against balance billing
3. Contact information for appropriate state & federal agencies (if individual believes that a provider or facility has violated the restrictions).

Public Disclosure & Posting on Website

How do Providers & Facilities satisfy the public disclosure requirement?

- ✓ Must prominently display sign with required disclosure information
- ✓ Must be at a location of the provider or facility
 - i.e., where notice of privacy practices are posted
 - unless the provider doesn't have a publicly accessible location

How to satisfy posting a disclosure on a public website requirement?

- ✓ Must be a disclosure or a hyperlink
- ✓ Must appear on a searchable homepage (the provider's or facility's public website).

Don't Forget About Language Requirements

Section 1557 requires Providers or Facilities to ensure the documents are either:

- ✓ A qualified interpreter who must be available (when applicable)
- ✓ Or the notice is translated, as necessary.

Effective communication with individuals with disabilities must be provided:

- ✓ Provision of appropriate auxiliary aids and services are also required.

The Standard Notice must be:

- Provided either on paper or electronically (based on individual preference)
- Given to the individual with a copy of the signed consent document either in-person, by mail, or via email

Timing of the Notice & Consent



Appointments Scheduled more than 72 hours in advance:

The notice & consent documents must be provided to the individual, or the individual's authorized representative, at least 72 hours before the date that the items & services are to be furnished.



Appointments Scheduled within 72 hours:

The notice & consent documents must be provided to the individual, or the individual's authorized representative, on the day the appointment is scheduled.



Appointments Scheduled on the Same day:

When an individual is provided the notice & consent documents on the same day of items or services, the documents must be provided no later than 3 hours prior to furnishing the relevant items or services.

Additional Notice & Consent Requirements



Provider or facility:

- Must give a physically separate document (not attached to) or incorporated into other documents.
- Must provide a representative physically present or available by phone to explain any documents or estimates to the individual & ready answer any questions.

Additional Notice & Consent Requirements

Healthcare providers and facilities are required to furnish uninsured & self-pay patients with a Good Faith Estimate of total out-of-pocket costs for services:

- ✓ Upon request from the patient or patient's representative or
- ✓ Within a specific time-frame after an appointment is scheduled.



Good Faith Estimate (GFE) Requirements



Providing a list of items & services reasonably expected during a time-frame by the scheduling provider or facility to provide care for the patient



Applying correct diagnosis codes & service codes



Sharing expected charges or costs by line item & from which provider or facility

Good Faith Estimate (GFE) Requirements



Notifying when a bill charges higher than the GFE.
Patient can either:

- Request an updated bill matching the GFE
- Ask to negotiate the bill
- Clarify if financial assistance is available



Informing how a patient can dispute their bill when charged at least \$400 higher than the GFE received from that provider or facility

Convening Provider/Co-Provider/Co-Facility

GFE

Multiple providers & facilities operating in conjunction with primary service must provide a combined GFE

1

No later than 1 business day after scheduling appointment to contact co-provider & co-facility about expected charges

IF...

An uninsured (or self-pay) patient may request the convening provider & facility to provide a combined GFE

Include a range of expected charges for items or services reasonably expected by co-providers & co-facilities

UNITED STATES

Department of
Health and Human
Services

Enforcement Must-Knows

From U.S. Department of Health & Human Services



Enforcement Discretion from HHS



Beginning: **January 1, 2022**
Ending: **December 31, 2022**

Situations where a GFE provided to an uninsured (or self-pay) individual does NOT include expected charges from other providers and facilities that are involved in the individual's care.

Requirements for Providers & Facilities

SCENARIO PRACTICE QUESTION

Which entity must provide a Good Faith Estimate?

Suppose multiple providers could be responsible for furnishing items and services in conjunction with a primary care.

CORRECT PRACTICE
ANSWER

Requirements for Providers & Facilities

SCENARIO PRACTICE QUESTION

Which entity must provide a Good Faith Estimate?

Suppose multiple providers could be responsible for furnishing items and services in conjunction with a primary care.

CORRECT PRACTICE ANSWER

Convening Provider or Facility

The convening provider or facility must provide a Good Faith Estimate to the uninsured (or self-pay) individual.

Requirements for Providers & Facilities



Convening Provider or Facility

Responsible for scheduling the primary items or services



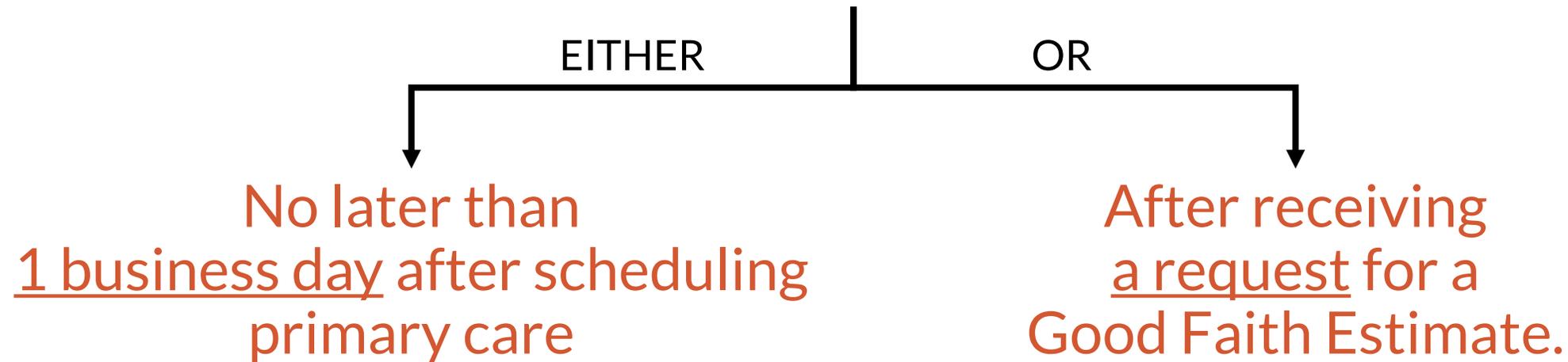
Co-Providers or Co-Facilities

Operates in conjunction with the primary items or services

Requirements for Providers & Facilities

Good Faith Estimates must identify the items or services reasonably expected from Convening Provider or Facility & Co-Providers or Co-Facilities

When to provide a Good Faith Estimate?



Our Recommendations

How to Achieve NSA Compliance

Recommendations

Critical tips to ensure compliance with the No Surprises Act:

- ✓ Providers: Keep your directory information up-to-date with current insurance companies
- ✓ Consider leveraging software: Generate your GFEs to be as accurate as possible
- ✓ Software Companies Examples include: RivetHealth | AccuReg | PVerify

Good Faith Estimate Disclaimer

CMS provides the following disclaimer example:

The Good Faith Estimate

Does show:

- Estimated costs of items & services
- Reasonably expected to meet health care needs
- Estimate is created based on information known at that time

Doesn't show:

- Any unknown or unexpected costs that may arise during treatment
- Potential to be charged more based on complications or special circumstances
- If this happens, federal law allows you to dispute (appeal) the bill.

Dispute Resolution Process

Suppose the uninsured (or self-pay) individual receives a bill at least \$400 above the estimate.

In that case, the individual may be eligible to start a **Patient-Provider Dispute Resolution (PPDR) process:**

- > Submit a request to HHS
- > Pay a small administrative fee

PPDR occurs through a third-party company (certified by HHS) that decides if the estimated, billed, or other amount is legitimate.

Dispute Resolution Instructions 1

When a bill invoices you for more than a Good Faith Estimate amount, Your patients have the right to dispute the bill two primary ways:

PATIENT OPTION A:

Start the process with the Healthcare Provider & Facility (Direct)

- Inform how charges are higher than GFE.
- Ask for a new bill that matches GFE.
- Negotiate the invoice or request financial assistance

PATIENT OPTION B:

Start the process with the U.S. Department of Health & Human Services (HHS)

- Contact HHS within 120 calendar days from the original bill date (about 4 months to start dispute resolution)

Dispute Resolution Instructions 2

\$25 fee to use the dispute process – When the agency reviews your dispute:

Agrees with you:
you must pay
Good Faith Estimate price.

Disagrees with you:
you must pay
the higher amount price.

*Keep a copy of this Good Faith Estimate in a safe place or take pictures.
You may need this if you are billed a higher amount.*

Dispute Resolution Instructions 3

How do patients start their dispute process?
Get the correct form.

What are your patients' rights?
Good Faith Estimates & Disputes.

Learn more about the CMS No Surprises Act here:

✓ Call 1-800-985-3059

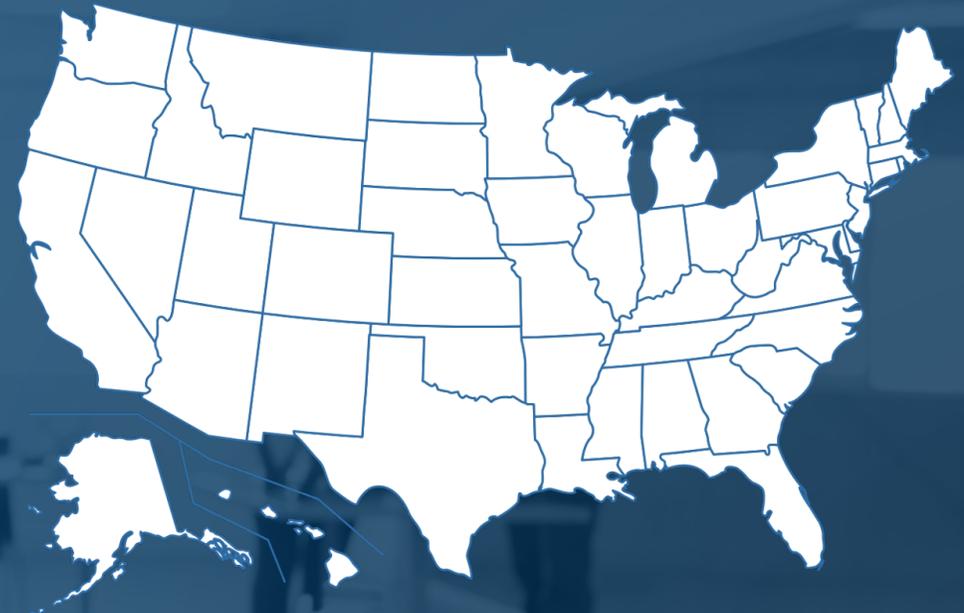
✓ Visit CMS Online

<<https://www.cms.gov/nosurprises/consumers>>

Remember: State Laws Still Apply

What billing laws exist at your state level?

- The No Surprises Act supplements state surprise billing laws
- State laws will apply unless preventing federal law application



Remember: State Laws Still Apply



18

estimated states
operate with comprehensive
surprise billing laws



15

additional states
Operate with limited
surprise billing laws*

**(Different than NSA protections)*

Remember: State Laws Still Apply

HCP Recommends:

- ✓ Determine whether surprise billing laws exist at your state-level
- ✓ If so, compare requirements between the existing state laws & the federal NSA



HCP Resources

Understand & Meet Your NSA Requirements

Resources

- ✓ **CMS NSA Training Module**
- ✓ **Surprise Billing Model Notice**
- ✓ **NSA Decision Matrix**
- ✓ **HHS Providers Guidance on Good Faith Estimates**
- ✓ **Good Faith Estimate Form**
- ✓ **HHS Standard Notice & Consent Documents**



HCP Client?

Fully integrate the latest 2022 requirements into your CMS Corporate Compliance Program (including the NSA) by reaching out to your dedicated *HCP Support Team*.

Not a Client Yet?

Learn how your organization can receive full access to the No Surprises Act resources when you schedule a free consultation.

Thank you!



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