




NO SURPRISES ACT PROTECTS PATIENTS FROM UNEXPECTED MEDICAL COSTS

INSIGHTS FROM THE BDO CENTER FOR HEALTHCARE EXCELLENCE & INNOVATION

According to research, millions of Americans [receive](#) a surprise medical bill each year, most often as a result of emergency room visits where out-of-network providers perform services at an in-network facility. While the average surprise bill is [roughly \\$600](#), bills can reach into the tens of thousands. In fact, a COVID-19 patient received a surprise air ambulance bill that was over \$52,000.

In response, surprise billing became a bipartisan issue. In December, Congress passed [The Consolidated Appropriations Act](#), which included the No Surprises Act (the Act). The Act is meant to address the financial responsibility disparities raised by situations where patients may not have knowingly chosen an out-of-network provider and/or facility.

KEY POINTS INCLUDE:

 **Emergency services** – Non-participating professionals and facilities cannot bill a patient for out-of-network rates. The bill will now be determined based on one of the following:

- ▶ Amount set forth by the applicable state law
- ▶ A qualifying payment amount as determined by forthcoming Department of Health and Human Services regulations
- ▶ An All-Payer Model Agreement as entered into by the applicable state under Section 1115A of the Social Security Act

This section of the Act also ensures that insurers cover emergency services without requiring prior authorization determination, which has resulted in claim denials in recent years.



Non-emergency services – Similar to emergency services, non-participating professionals providing services at a providing facility must be billed at an amount similar to their “in-network” fees, unless the patient knowingly agrees to use the non-participating professional. Such consent must be written carefully on the part of the professional in order for it to be binding.



Air ambulance services – Such services provided by a non-participating provider must be billed at the amount that would have been billed at by a participating provider, if the services are in fact covered. Interestingly, the Act did not address ground ambulance services, even though 71% of ground services have the potential to generate a surprise bill, according to [Health Affairs](#).

The Act includes several other provisions that play a key role in protecting patients from surprise billing. For example, group health plans and other health insurers will be required to include on any of their physical or electronic identification cards issued to their members the associated deductible and out-of-pocket maximum, as well as a telephone number and website address for consumer assistance.

Additionally, advance notice as to whether the provider or facility is a participant in the applicable health plan will be mandated, along with good faith estimates of the amount the plan is responsible for, the amounts the patient (or responsible party) is responsible for, and the amount that the patient (or responsible party) has incurred to date toward any maximum limitation.

Lastly, a price comparison tool must be maintained by a group health plan or health insurance issuer by telephone and a website which allows a patient (or responsible party) to compare the amount of the service to the same service by any other provider.

KEY TAKEAWAYS

- ▶ The Act serves as a step forward in protecting patients from unexpected medical costs, but adherence will not be without challenges, particularly for providers and health plans.
- ▶ As a next step, providers should review organizational policies and procedures to ensure they incorporate the new guidance, including training for registration and billing personnel. Providers should additionally ensure their compliance program includes testing of claims for adherence to appropriate billing rates.
- ▶ For health plans, examining claims processing policies and procedures will be of particular importance, to ensure they meet regulations around identification cards, price comparison tools and emergency services.
- ▶ Lastly, both providers and health plans should perform financial analyses of their operations to determine the financial impact of incorporating the changes called for in the Act.

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