



HEALTHCARE REGULATORY ROUND-UP

The No Surprises Act - Day 12 and Counting

January 12, 2022

© 2022 PYA, P.C.

WE ARE AN INDEPENDENT MEMBER OF HLB—THE GLOBAL ADVISORY AND ACCOUNTING NETWORK

Introductions



Martie Ross
mross@pyapc.com



Kathy Reep
kreep@pyapc.com



pyapc.com
800.270.9629

ATLANTA | KANSAS CITY | KNOXVILLE | NASHVILLE | TAMPA

No Surprises Act

- Effective January 1, 2022
 - Implementing regulations published in July and October 2021
- Two purposes
 1. Prohibit 'surprise' billing and replace with new payment methodology
 - Patients through no fault of their own receive services from out-of-network (OON) provider
 2. Provide self-pay patients with good faith estimates of charges

PYA Resources - <https://www.pyapc.com/healthcare-transparency>

No Surprises Act Implementation Guide – Part 1: Notice Requirements

– Published November 2, 2021

No Surprises Act Implementation Guide – Part 2: Good Faith Estimate Requirements

– Published November 2, 2021

No Surprises Act Implementation Guide – Part 3: Hospitals, Their Medical Staffs, and NSA Disclosure and Notice Requirements

– Published December 10, 2021

No Surprises Act Implementation Guide – Part 4: The Qualifying Payment Amount – Getting Your Ducks in a Row

– Published January 10, 2022

On-Demand Webinar: Preparing for No Surprises Act Compliance

– Published November 19, 2021

On-Demand Webinar: “Complying With the No Surprises Act – A Guide for Physician Practices”

– Published November 15, 2021

On-Demand Webinar: Ready, Set, Go – No Surprises Act Takes Effect January 1

– Originally presented October 20, 2021

Good Faith Estimate Workflow

1 STEP Identifying Self-Pay Patients

When communicating with a patient either shopping for care or scheduling a service, determine whether the patient qualifies as "self-pay" and thus, is entitled to receive a GFE.

```

    graph TD
      Q1{Does the individual have health insurance?} -- No --> A1[GFE furnished to the patient no later than 3 business days after the date of the request.]
      Q1 -- Yes --> Q2{Will he/she make a claim for the service under his/her health insurance?}
      Q2 -- No --> A1
      Q2 -- Yes --> Q3{Does the individual's health insurance provide benefit for the service?}
      Q3 -- No --> A1
      Q3 -- Yes --> Q4{If a provider is out-of-network OON, does the health insurance provide any benefit for OON services?}
      Q4 -- No --> A1
      Q4 -- Yes --> A2[Follow your institution's insured patient workflow.]
    
```

2 STEP Providing Required Notice

A provider is responsible for orally informing all self-pay patients of the provision of a GFE of expected charges when the scheduling of an item or service occurs, or when questions about the cost of items or services arise.

The Centers for Medicare & Medicaid Services (CMS) has published a model notice for this purpose, available [here](#) (included in the downloadable ZIP file as Appendix 1). The use of this model notice is not mandated, but CMS will consider its use good faith compliance with the notice requirement.

3 STEP Determining the Convening Provider and Location Where Services Will Be Performed

A "convening provider" is the provider that (1) is responsible for scheduling the primary item or service, or (2) receives a request from an individual shopping for an item or service.

```

    graph TD
      Q1{Will the service(s) be performed at the convening provider's physical location?} -- No --> A1[Involved providers should discuss and decide their respective responsibilities.]
      Q1 -- Yes --> Q2{Will a co-provider be involved?}
      Q2 -- No --> A1
      Q2 -- Yes --> Q3{Is the co-provider's service scheduled separately?}
      Q3 -- No --> A2[NSA responsibilities fall to the convening provider.]
      Q3 -- Yes --> A3[The co-provider is subject to the same requirements as the convening provider.]
    
```

4 STEP Determining the Timing for Providing the GFE

The timing of the provider's delivery of the GFE to a self-pay patient in advance of the service depends on whether and how far out the date of service is scheduled.

```

    graph TD
      Q1{Is the individual shopping or scheduling?} -- No --> A1[GFE furnished to the patient no later than 3 business days after the date of the request.]
      Q1 -- Yes --> Q2{Is the service scheduled at least 3 days out?}
      Q2 -- No --> A2[GFE is not required.]
      Q2 -- Yes --> Q3{Is the service scheduled between 3-9 days out?}
      Q3 -- No --> A3[If the service is scheduled at least 10 days out, the convening provider must furnish the GFE to the patient no later than three business days after the date of scheduling.]
      Q3 -- Yes --> A4[GFE furnished to the patient no later than 1 business day after the date of scheduling.]
    
```

5 STEP Providing the Good Faith Estimate

The convening provider must transmit a GFE to the individual in written form, either on paper or electronically, based on the individual's preference. (Note the obligation to provide the GFE for a scheduled service is not dependent on the individual requesting the GFE; the obligation to provide the GFE is triggered when the service is scheduled.) Even if the patient requests the GFE be furnished by phone or orally in person, the convening provider still must issue the GFE in written form.

CMS has published a standard form for providers to use in providing GFEs and an explanation of the specific data elements to be included in the estimate. While the use of the standard form is not mandated, CMS will consider its use good faith compliance with the requirement to inform an individual of expected charges. The template is available at [here](#) (Appendix 2).

Note: If the convening provider anticipates a change in service, a new GFE must be issued to the patient no later than one business day before the items or services are scheduled to be furnished. Also, for recurring services, the regulations permit a convening provider to issue a single GFE once every 12 months.

Beginning in 2023, the co-provider will be responsible for providing specific information to the convening provider within 1 business day of scheduling or receiving a request from the convening provider. For details on the required information, see PYA's ["No Surprises Act Implementation Guide: Good Faith Estimate Requirements."](#) Additionally, if you would like guidance related to the No Surprises Act, or for assistance with any matter related to compliance, valuation, or strategy and integration, contact a PYA executive at (800) 270-9629.



By January 1 -

- **For Surprise Billing**
 - Compliance with notice requirements (posting on website and at physical location, delivery to patients with insurance coverage)
 - Written agreement between facility and providers
 - Process to identify services subject to Surprise Billing rules
 - OON emergency services
 - OON non-emergency services furnished at in-network facility
 - Surprise Billing does not apply to physicians not providing services at facilities
- **For Good Faith Estimates -**
 - Compliance with notice requirements (posting on website and at physical location; delivery to self-pay patients)
 - Process to identify self-pay patients (inquiries and scheduling)
 - Assigned responsibility for completing and sending GFEs in timely manner

Surprise Billing Questions

- Applicable services
 - Definition of 'emergency'
 - Non-facility services
- Application of state laws
- Provision of notices
 - Frequency
 - Physician/facility agreements
 - Required translation
- Consent to balance bill
- Qualifying payment amount (QPA)

Qualifying Payment Amount

- Plan's or issuer's median contracted rate for a specific service in the same geographic region within the same insurance market *as of January 31, 2019*
 - Rate adjusted by CPI-U
 - For 2022, CPI-U = 1.0648523983
 - Example: median rate as of January 31, 2019 = \$12,480; adjusted by CPI-U = \$13,289.36 (round to nearest dollar = \$13,289)

Good Faith Estimate Questions

- Applicable services
 - Defining 'self-pay'
 - Delivery of notice
- Applicable providers
 - Convening provider vs. co-provider
- Standard GFE
 - Quantifying GFE
 - Financial assistance
- Provision of GFE
 - Timing of delivery
 - Recurring patients
 - Proof of delivery
 - Maintaining for non-patients

New for 2022

- GFE for insured patients
- Notifying plans of signed waiver
 - Sending waiver to plans
- Advanced explanation of benefits (A-EOB)

Plan Requirements



Continuity of Care



Provider Directories



Notification



Transparency in Coverage

How can we HELP?





A national healthcare advisory services firm
providing consulting, audit, and tax services