

Insights

Hurry Up and Wait: Feds Delay Enforcement of Medical Billing Transparency Requirements

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The Federal Departments of Labor, Health and Human Services (HHS), and the Treasury recently **announced** a delay to certain portions of their Interim Final Rules implementing the surprise billing provisions of the No Surprises Act, set to become effective on January 1, 2022. While most of the delays affect the insurance industry's compliance with the No Surprises Act, the announcement also delays a health care provider's compliance with the No Surprises Act's good faith estimate requirements. We have previously written articles on **Indiana's good faith estimate law** and the **No Surprises Act**.

The No Surprises Act requires health care providers and facilities to provide detailed price information for health care services to patients beginning January 1, 2022. When a provider schedules items or services for a patient, the provider or the facility must collect the patient's health insurance information. If the patient has health insurance coverage, the provider or facility sends a "good faith estimate" of the expected charges and relevant billing and diagnostic codes to the patient's health plan. If the patient does not have health insurance coverage, the provider or facility must provide this information directly to the patient.

Recognizing the "complexities of developing the technical infrastructure for transmission of the necessary data from providers and facilities to plans and issuers," the Federal Departments decided to delay enforcement of this good faith estimate requirement as it relates to insured patients. The Departments intend to exercise this delay until rulemaking to fully implement the good faith estimate requirements is "adopted and applicable." Therefore, even though compliance is required by January 1, 2022, health care providers and entities will not be held accountable by the Federal government for failing to follow those requirements. Providers and facilities must still provide good faith estimates to uninsured patients according to regulations expected to be finalized prior to January 1, 2022.

Indiana's good faith estimate laws require providers to give patients a good faith estimate when requested, and they must obtain a patient's consent to charge out-of-network rates to patients at in-network facilities. The Federal delays do not affect these laws. However, Indiana's good faith estimate laws require providers to follow the No Surprises Act's good faith estimate requirements beginning January 1, 2022. Accordingly, the Federal Departments' delayed enforcement of that provision raises compliance challenges for Indiana providers.

The overlapping federal and state medical billing transparency laws can be difficult to understand and implement. If you have questions about your facility's compliance with these laws, please contact **Brandon W. Shirley** or **Grant M. Achenbach**.

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only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.