

HEALTH CARE LAW ADVISOR ALERT: NEW FEDERAL REGULATIONS TAKE AIM AT HEALTH CARE PROVIDER BILLING

Health care providers should be aware of new regulations the U.S. Department of Health and Human Services (HHS) and other agencies issued in July that relate to medical billing practices.

Part I of the long-awaited regulations to implement the federal No Surprises Act was published on July 13, 2021. The regulations are applicable for plan or policy years beginning on or after January 1, 2022. HHS, along with the Department of the Treasury and Department of Labor, issued rules that implement the statutory provisions in the No Surprises Act. This federal law, enacted in 2020, was discussed in an earlier [blog article](#). The new regulations mirror the statutory provisions and provide guidance on interpreting and applying the No Surprises Act. In particular, the new regulations clarify the methodology for calculating the qualifying payment amount (QPA)—a calculation that will often be used to evaluate the amount health plans pay providers for treatment that falls under the No Surprises Act, including out-of-network emergency care. The regulations also outline requirements for certain health care providers to post and provide consumers with a notice related to balance billing restrictions, and the criteria for providers to obtain the consent necessary to balance bill for non-emergency out-of-network services.

The new regulations do not yet address the independent dispute resolution (IDR) process applicable when health plans and providers do not agree on the amount to be paid for out-of-network care that falls under the Act. This IDR process is an important aspect of the No Surprises Act, and the continued uncertainty may make it difficult for health care providers to plan for the coming year. Regulations on this topic are expected to be issued soon.

The federal government is accepting public comments through September 7, 2021, and may modify the regulations based on those comments.

The attorneys who contribute to the Health Care Law Advisor are available to assist health care providers with a variety of legal matters. Please contact us if you need assistance navigating the new regulations.