Get Ready for New No Surprises Billing Act

Healthcare providers will be subject to a new surprise billing law from January 2022. This law “No Surprises Act” contains key protections to hold consumers harmless from the cost of unanticipated out-of-network medical bills.

Surprise bills can arise in both situations where the patient is in an emergency situation or non-emergency. For example, in emergency situation patients typically have little or no say in where they receive care while in non-emergencies patients from in-network healthcare organizations receive care from ancillary providers who are not in-network and whom the patient did not choose.

This law has major implications on providers, payers, and consumers hence we will discuss about these stakeholders in the following brief.

How providers and payers should get ready for the No Surprises Billing Act?

Both providers and payers should be focused on its operational strategies which include billing
process, out-of-network care, and mitigation strategies, and provide clear notice and consent communications to get ready for this act. Let’s understand each term in detail.

**Improve billing process**

It is very crucial to deliver accurate cost estimates for patients, hence providers and payers should review their data systems. Moreover, once the changes to surprise medical billing take effect then the accuracy of insurance verification is essential hence you should review the systems used for this.

**Review out-of-network care and mitigation strategies**

It is necessary for payers to review probable out-of-network care situations, identify the potential financial impact, and expand out-of-network mitigation strategies to avoid balance billing situations. Moreover, providers should know when to opt arbitration as Payers and providers each side will try to use leverage to force rates up or down, or control networks.

**Provide clear notice and consent communications**

Balance billing is prohibited but allowed in only exceptional cases under the “No Surprises Act” where a nonemergency patient can choose an out-of-network provider knowing the fact that the full bill will not be covered by the payer and they will be responsible for extra charges above their cost-sharing. Clear communication strategies must be opted by providers and identify the patients who might be interested in paying for certain providers.

*After knowing various strategies, you should know about resolving payment amounts for surprise bills and you will know it in the following brief.*

**Resolving payment amount for surprise bills**

There was wide disagreement between rule makers about “how to resolve the payment amount for surprise, out-of-network medical bills”. Finally, an independent dispute resolution process (IDR) is adopted for any surprise medical bill.
An arbitration procedure established by IDR allows independent review of provider-plan disputes. The provider and plan must jointly select a certified IDR entity within three days following the date the IDR process is initiated.

IDR is initiated when the provider or plan submits a notification to the other party and Secretary of HHS. During the 30-day IDR process the parties may continue to negotiate and before the end of the IDR process parties may agree on a payment amount.

Within 10-days of selecting the IDR entity, the parties must submit final offers, information requested by the IDR entity, and additional information (subject to certain exceptions) the parties believe are relevant to their offers.

The costs of IDR are recovered from an entity whose offer was not chosen by the IDR and payment for the disputed services must be made to the provider within 30-days of the IDR entity’s determination.

This act also contains key provisions to protect consumers against the cost of surprise medical bills. Let’s look at important provisions in detail.

Health plans must cover surprise bills at in-network rates

The law requires surprise medical bills for emergency services must be covered from private health plans, including air ambulance services and out-of-network provider bills for services rendered at in-network hospitals and facilities.

The recognized amount is considered as a base for In-network cost-sharing for surprise bills and it is observed that amount will be the median in-network payment amount under the plan for the same or similar services.

Balance billing is prohibited

For emergency services, Out-of-network providers are not allowed to balance bill patients
beyond the applicable in-network cost-sharing amount for surprise bills. The same applies to out-of-network providers who render non-emergency services at an in-network hospital or other facility.

An exception applies for certain non-emergency services if providers give prior written notice at least 72 hours in advance and obtain the patient’s written consent.

The notice needs to indicate various things like the provider does not participate in-network, provide a good faith estimate of out-of-network charges, and include a list of other participating providers in the facility whom the patient could select. However, ancillary services (such as anesthesia) or diagnostic services (such as radiology and lab) are applicable under this exception.

**Out-of-network providers cannot send patients bills for excess charges**

The law specifies that providers “shall not bill, and shall not hold patients liable” for excess amount compared with the in-network cost-sharing amount for such services. If you notice, in the earlier bill versions the “shall not bill” language did not appear and constitutes an additional element of consumer protection under the new law. Hence Out-of-network providers need to determine a patient’s insurance status and the applicable in-network cost-sharing for the surprise medical bill.

Now you will be more comfortable for New No Surprises Billing Act which will be implemented in near future. **We do keep an eye on various developments in the healthcare sector to make sure new developments will not bring hurdles for providers in getting reimbursement properly and efficiently.**