

# No Surprises Act

## FAQ's



Healthcare Bluebook

### What is the No Surprises Act?

The No Surprises Act is a law intended to eliminate most surprise, out-of-network health care bills for Americans. Starting Jan. 1, 2022, it will be illegal for health care providers to bill patients for more than the in-network cost-sharing due under the patient's insurance in almost all cases, with the exception of ground ambulance transport.

### What are "surprise" bills?

As the name implies, surprise bills tend to arise when patients are unable to choose an in-network provider for certain services and ultimately receive one or more bills for out-of-network care. For example, a patient may not be able to avoid an out-of-network facility during an emergency; or, even when they select an in-network facility, they may have no choice but to receive services from an out-of-network anesthesiologist or other ancillary provider.

### What are the requirements under the Act?

It bars out-of-network providers from billing patients more than in-network cost-sharing amounts for:

- All out-of-network emergency facility and professional services;
- Post-stabilization care at out-of-network facilities until such time that a patient can be safely transferred to a different facility;
- Air ambulance transports, whether emergency or non-emergency in nature;
- Out-of-network services delivered at or ordered from an in-network facility unless the provider follows the notice and consent process described below.
- Under the notice and consent process, an out-of-network provider must notify a patient of its out-of-network status and obtain the patient's written consent to receive out-of-network services more than 72 hours before the service is delivered. The goal is to allow patients to choose an out-of-network provider when they wish. The law also establishes that there is no notice and consent exception allowed for services where patients are typically unable to select their specific provider.

Insurers will be required to treat all these services as in-network for purposes of patient cost-sharing, deductibles, and out-of-pocket limits.

### Does this rule apply to us?

The law applies to all commercially insured patients.

### How is Bluebook addressing the No Surprises Act?

We are closely monitoring the regulatory implementation of the No Surprises Act. Many of the provisions are very familiar to Bluebook as they were adapted directly from the 2019 bi-partisan Lower Healthcare Costs Act. Our team provided significant testimony input to congressional staff during the original drafting of the LHC Act, and we are pleased that many key provisions made it into the final No Surprises Act.

## Key Provisions:

- Online Shopping Tool: The online shopping tool is familiar territory for Bluebook and we are prepared to support our clients during implementation with all required elements of both the No Surprises Act and Transparency in Coverage regulations by 1/1/23.
- Pre-EOB language: We are prepared to support our clients in implementing both the price estimate and OOP cost estimate related to the act. While the specific Advanced EOB requirements from the No Surprises Act were deferred by the Department of Labor on 08/20/2021, the requirements are similar to the member specific price and OOP estimates required by the recently finalized federal payor rules on transparency. The member reporting requirements of the transparency rules go into effect for 500 services on 1/1/23 as part of the online shopping tool implementation that Bluebook will support.
  - While we are unsure when additional guidance around the Advanced EOB requirement from the No Surprises Act will be provided, Bluebook is prepared to support our clients in meeting this requirement once we receive further clarification.

## What does this mean for consumers?

Overall, the No Surprises Act is a win for consumers who will no longer be at risk for large, surprise out-of-network bills.

<sup>i</sup> <https://www.americanactionforum.org/insight/primer-recent-health-care-transparency-initiatives/>

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