



Surprise Billing Enforcement – Additional Information Coming

January 28, 2022

The No Surprises Act conveys certain authorities to states in certain circumstances. In addition, some states have enacted surprise billing protections for patients in state regulated plans creating some confusion over whether state or federal protections and enforcement apply in any given circumstance. We have been waiting for some clarity from CMS and information is starting to surface.

CMS submitted a written survey to states last year to ascertain each state's authority and intention to enforce each of the major provisions of the NSA. Click [here](#) for the CMS response to Florida's survey and the allocation of enforcement requirements – the survey is at the end.

In Florida, CMS is allowing the use of Florida's state-specific dispute resolution process for out-of-network bills instead of the federal methodology in the NSA. It has been reported that Florida providers view this as a win because the state dispute resolution uses a more provider-friendly methodology to determine the reimbursement rate. Florida providers must use the federal process in some instances, including for air ambulance services and when an uninsured individual is billed substantially in excess of the good faith estimate.

We will share information when we get it, but you may want to check with your state health department to see if it submitted the survey to CMS and if it has received a response.

Aside from understanding the enforcement authorities, providers must give consumers a disclosure notice summarizing protections under the NSA and state laws. This notice must include the name and contact information for applicable enforcement agencies. Click [here](#) to download the CMS zip file that contains the model notice disclosure. Patients may need to contact multiple agencies at the federal or state level.

Note that HHS has established a hotline for patient complaints and intends to conduct on average 200 investigations per month into potential violations by providers in 2022.

For additional information, please contact our General Counsel Diane Turpin at diane.turpin@shcare.net or 202-578-5444.