



The No Surprises Act

The Federal No Surprises Act has created several new obligations for health care providers, facilities, plans, and insurers that are intended to protect patients and clients from receiving unexpected or “surprise” medical bills.

These surprise billing protections take effect on January 1, 2022. One of the obligations under the No Surprises Act is for health care providers to provide all uninsured and self-pay patients with a Good Faith Estimate of expected charges.

Most of the surprise billing protections apply only to facilities such as hospitals, outpatient hospital departments, critical access hospitals, or ambulatory surgical centers and air ambulance services. In addition, these protections generally apply only to participants, beneficiaries, and enrollees of a group health plan or with coverage offered by a health insurance issuer.

For that reason, the primary obligations under the No Surprises Act are on the insurance companies themselves. Because of this, the insurance companies will inform providers of what (if any) changes need to be made to comply with the federal rules.

The Good Faith Estimate

The Good Faith Estimate requirements also take effect on January 1, 2022. Unlike other provisions of the No Surprises Act, the Good Faith Estimate requirement applies to all health care providers regardless of facility type or in-network status.

In general terms, the requirement is for all uninsured and self-pay clients to be provided with a good faith estimate of the expected cost for the health care items and services offered to them. At this point, there is not yet a requirement for good faith estimates applicable to patients who plan to use in-network insurance benefits.

Content of good faith estimate

For LMHCs, LMFTs, Social Workers, and Psychologists, existing Washington law regarding disclosure of client financial obligations already requires us to disclose the vast majority of the information that is now required under the Good Faith Estimate provision of the No Surprises Act. However, this new rule is much more impactful for other types of medical providers who do not have a specific legal requirement under Washington law to provide a disclosure of the

client's financial obligations prior to initiating a clinical relationship. The

Washington rules can be found here:

<https://app.leg.wa.gov/WAC/default.aspx?cite=246-809-710> [for LMHCs, LMFTs, & SWs]

<https://app.leg.wa.gov/RCW/default.aspx?cite=18.83.115> [for Psychologists]

Under the new federal rule, the Good Faith Estimate of costs for uninsured and self-pay clients must contain the following:

1. Patient name and date of birth;
2. Description of the primary health care item or service being provided in clear and understandable language and date of service (if applicable);
3. An Itemized list of health care items or services, reasonably expected to be provided;
4. Diagnosis codes, expected service codes, and expected charges associated with each listed item or service (if applicable);
5. The provider's name, NPI, and federal tax ID number (EIN);
6. A list of additional healthcare items or services that the provider anticipates will require separate scheduling outside of the expected primary period of care (if applicable);
7. A statement that services are expected to be provided weekly (or on another basis) until treatment is terminated;
8. Disclaimers that:
 - additional items or services that are recommended must be scheduled or requested separately;
 - the good faith estimate is only an estimate and that actual charges may differ;
 - the client has the right to initiate a dispute resolution process if the actual billed charges substantially exceed the expected charges in the good faith estimate, and
 - the good faith estimate is not a contract and does not require the client to obtain the healthcare services that are being offered.

Deadlines for good faith estimates

Good faith estimates must be provided to uninsured or self-pay patients within specific time frames. These include:

1. When the healthcare service is scheduled at least three business days in advance, this information needs to be provided no later than one business day after the date of scheduling;
2. When the health care service is scheduled less than three business days in advance, this information needs to be provided only upon client request;
3. When a client requests this information, it needs to be provided no later than three business days after the date of the request.

The good faith estimate can be provided in either paper or electronic form. If provided electronically, the format must be such that the patient can both save and print the document. Good faith estimates are considered part of the

patient's medical record and must be maintained in the same manner.

The Bottom Line

For private pay clients:

1) If you are an LMHC, LMFT, SW, or psychologist, make sure that your Disclosure and Informed Consent process complies with Washington state law and contains any additional information required as part of the Good Faith Estimate.

Here are the components of the Good Faith Estimate that Washington law does not require us to include in our Disclosure and Informed Consent document and therefore, you might need to add:

1. Your NPI;
2. Your federal tax ID number (EIN);
3. Client date of birth;
4. A statement that services are anticipated to occur weekly;
5. Disclosures about the Good Faith Estimate.

It would be a good idea to add to your Disclosure and Informed Consent your NPI, your EIN, a block for client date of birth, and the disclosures, and some language like this:

“ Additional services that may be recommended. This estimate of your costs is only an estimate, and your actual charges may differ. You have the right to initiate the patient-provider dispute resolution process if the charges you are actual billed substantially exceed the expected charges in this estimate. This estimate of costs is not a contract and does not obligate you to obtain clinical services from us .”

2) Consistent with Washington law, be sure to provide new clients with a copy of your Disclosure and Informed Consent document at or before the time you schedule their first session.

3) If you are a health care provider without a Washington legal requirement to disclose client financial obligations (e.g., NP, Psychiatrist, ARNP), make sure to provide this information to clients upon the initial request for services.

For in-network insurance clients:

Since this is a relatively new federal requirement that is primarily targeted at addressing surprise billing in medical settings there are still numerous unknowns about exactly how this all will be implemented and interpreted. For any insurance companies you are in-network with, keep an eye out for some process changes that might come from these rules. If you want to, you could also proactively reach out to the insurance companies you are in-network with and ask if there are any changes in their policies based on this regulation.

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