

**FEDERAL AGENCIES PUBLISH INTERIM FINAL RULES FOR THE NO SURPRISES ACT**

On July 13, 2021, the Department of Health and Human Services (DHHS) and other Federal agencies published Interim Final Rules related to the No Surprises Act, the Federal consumer protection law that aims to close the gap between existing state and Federal laws that offer patient protections against surprise medical bills. DHHS will finalize these rules after the comment period ends. The finalized rules and the No Surprises Act go into effect on **January 1, 2022**.

While some states have addressed balance-billing concerns in their respective laws, these rules now affect self-insured plans, normally preempted by ERISA. The Interim Final Rules apply to the following services: (i) emergency services; (ii) certain post-stabilization services; and (iii) non-emergency services provided by out-of-network providers at in-network facilities. The No Surprises Act and the Interim Final Rules impact the following groups:

- group health plans and health insurance issuers offering individual or group coverage;
- hospital emergency departments and independent freestanding emergency departments; and
- health care providers and facilities.

Some key takeaways from the Interim Final Rules:

- all providers and facilities must meet strict disclosure requirements;
- out-of-network providers and facilities must satisfy specific notice and consent requirements prior to furnishing services;
- plans pay only a calculated amount of a patient’s bill for out-of-network services;
- providers and facilities cannot balance bill patients for the difference; and
- patients cannot be balance billed for services received in an emergency room.

DHHS and other agencies will release additional guidance for the dispute resolution process and other related provisions. While these are interim rules, we do not anticipate any major changes in the final rules given how closely the Interim Final Rules track the No Surprises Act.

Providers that are out-of-network with any self-insured plans should take steps necessary to ensure compliance with these provisions starting on January 1, 2022, as the No Surprises Act and the Interim Final Rules authorize DHHS to impose civil monetary penalties on facilities and providers for any violations.

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Should you have any questions regarding the above, please contact the [Garfunkel Wild attorney](#) with whom you regularly work, or contact us at [info@garfunkelwild.com](mailto:info@garfunkelwild.com).

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