

NO SURPRISES ACT



January 1, 2022, marked the effective date for the No Surprises Act (NSA or the Act), a significant piece of COVID-19 relief legislation passed by Congress in late 2020. The NSA aims to prevent patients from receiving unexpectedly high medical bills after receiving healthcare services out-of-network. The Act applies to emergency services, as well as nonemergency services under certain conditions.

For plan years beginning on or after January 1, 2022, when patients receive emergency care out-of-network, the NSA prohibits health plans from charging higher cost-sharing amounts (e.g., copay, deductible, coinsurance, etc.) than under in-network benefit rules. Plans must also pay the out-of-network providers directly, and providers may not charge patients for the remainder of the bill. The Act also applies to air ambulance services, while ground ambulance services may be added to the NSA's scope in the future.

Similarly, patients receiving nonemergency out-of-network care at an in-network facility are only responsible for in-network cost-sharing amounts, although exceptions may apply if certain notice, disclosure, and consent requirements have been met. If health plans and out-of-network providers cannot agree on payment, the Act requires a 30-day negotiation period before either party may move for an independent dispute resolution (IDR).

The NSA covers most individual and group health plans, including fully insured plans and employer-sponsored self-funded plans. Hospitals, professional, and ancillary

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providers are all affected by the NSA, with many scrambling to determine what the Act means for their organization. The NSA supplements state law, so stricter state laws, such as those relating to surprise billing and dispute resolution processes, will continue to apply. Multiple federal agencies have issued rules and guidance pertaining to the Act and additional rules are expected over the coming months and into 2023.

Husch Blackwell's nationally-ranked Healthcare team is on hand to help you determine how the Act affects your organization and your unique business situation. We stand ready to offer:

Specific guidance on NSA compliance, tailored to your organization

Counsel on the NSA's relationship with individual state laws

Assistance devising compliant payment strategies for both the near-term and long-term

Advice to ancillary service providers, such as laboratories, remote device monitors, telehealth organizations, and behavioral health providers

Advice to payment administrators, revenue cycle organizations, and health plans on compliance, payment, and network strategies

Assistance to billing companies looking to incorporate NSA compliance into their platforms

Representation with negotiating and arbitrating payment disputes

Education and resources on NSA updates and trends

