Tales of the No Surprises Act.

Presented to you by Entrust
90 Degree Benefits

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I. Legislative Intent of the No Surprises Act

- To provide consumers Federal Protections against surprise billing by limiting out-of-network cost sharing and prohibiting “balance billing,” in which surprise bills arise the most.
- Health Plans Effected: If a group health plan or health insurance issuer offering group or individual health insurance coverage, provides or covers any benefits with respect to services in an emergency department of a hospital or with respect to emergency services in an independent free standing emergency department.

What kind of claims does the No Surprises Act effect?

- Out of network emergency room. Including inpatient if the member was admitted through the ER. (Facility and Physician.)

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What kind of claims does the No Surprises Act effect?

- In network out of network ancillary services such as radiology, pathology and anesthesiology.

What kind of claims does the No Surprises Act effect?

- Air ambulance services from out-of-network providers.

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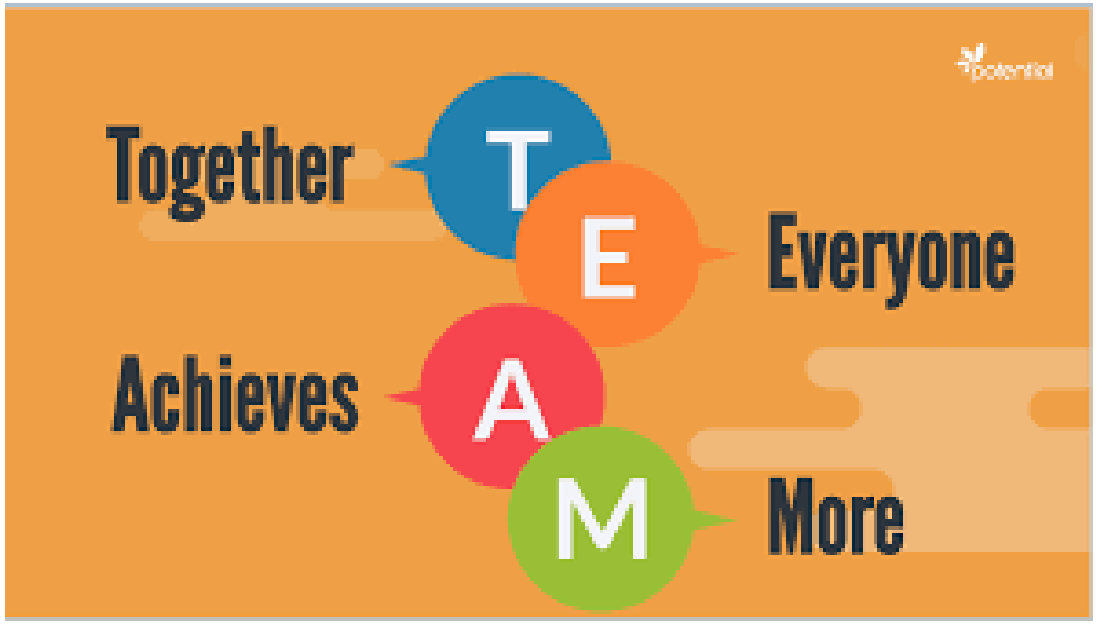
Effect on members.

- Members cannot be balance billed,
- Members cannot be sent to collections and
- Members should never receive a collection notice from the hospital.

II. Identifying Claims that fall under No Surprises Act & processing them correctly.



- Need claim examiners who can effectively identify and process No Surprise Act claims.
- Claim examiner then applies the *Qualified Payment Amount*. The *QPA* is generally the median of contracted rates recognized by the plan or issuer, for the same or similar item or service that is provided by the provider in the same or similar specialty or facilty of the same or similar facility type and provided in the geographic region in which the item or service is furnished, increased for inflation.

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II. Continued

- Once QPA is applied, a remark description code is needed stating along the lines, “This was processed in accordance to the regulations of the No Surprises Act. Send all correspondence to [Email address] or call [phone number]. This notifies to the provider where to send the Notice.

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The Open Negotiation Notice (the document providers send.)

OMB Control No. 1210-0169
Expiration Date: 11/30/2025

Open Negotiation Notice
Instructions

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued interim final rules establishing a Federal independent dispute resolution process (Federal IDR process) that nonparticipating providers or facilities, nonparticipating providers of air ambulance services, and group health plans and health insurance issuers in the group and individual market or Federal Employees Health Benefits (FEHB) carriers may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for certain services. More specifically, the Federal IDR process may be used to determine the out-of-network rate for certain emergency services, nonemergency items and services furnished by nonparticipating providers at participating health care facilities, and for air ambulance services furnished by nonparticipating providers of air ambulance services where an All-Payer Model Agreement or specified state law does not apply.

Item(s) and/or service(s) [insert additional rows as appropriate]

	Description of item(s) and/or service(s)	Claim Number	Name of provider, facility, or provider of air ambulance services, and National Provider Identifier (NPI)	Date provided	Service code	Initial payment *(if no initial payment amount, write N/A)*	Offer for total out-of-network rate (including any cost sharing)
1.							
2.							
3.							
4.							
5.							

Signature _____ Date _____

Print Name _____ Relationship to person(s) or entity listed above _____

Mailing Address _____ Telephone number _____

Email Address _____

Timelines and Process

- Once the health plan receives the “Open Negotiation Notice”, the health plan and the provider have up to 30 business to reach a settlement.
- If negotiations fail, the provider may begin the IDR arbitration process 4 days after the open negotiation period has ended.

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Negotiations between providers and health plans

- Personal Experiences
  - A lot of providers are being fair. On average, we settle at about 33-34% billed charges. That is cheaper then most PPO plans.
  - However, some hospitals do not negotiate fairly. Some hospitals say the lowest they will take is 60% of billed charges, which is not “good faith.”
  - Some hospitals do not want to negotiate and MOST Air Ambulances want to go to the arbitrator.

The IDR entity selection.

- Once negotiations fail, a provider initiates a “Dispute” on the CMS portal.
- You will receive a dispute notice shown on the left.
- To identify the claim, click on the “IDR Entity Selection Response Form.” It is imperative you complete the IDR entity selection to know the dispute number and claim number.
- If not completed in time, the link closes and you will not know what claim number the dispute belongs to.
- Then you will have to call the chosen IDR arbitrator entity to ask what claim the dispute belongs to because they will not answer over email.

- **IDR dispute status:** Certified IDR entity selection agreement or disagreement needed
  IDR reference number: DISP-XXXXXXX

  [Provider] has started the Federal Independent Dispute Resolution (IDR) process to determine the out-of-network rate for the item(s) or service(s) related to **DISP-XXXXXX**. The initiating party has selected **Federal Hearings and Appeals Services, Inc.** as the preferred certified IDR entity to handle this dispute.

  Next step: Submit the following information by completing the IDR Entity Selection Response form:

1. **Do you have a conflict of interest (COI)** with the selected certified IDR entity?
2. **Do you agree to the certified IDR entity selected** by the initiating party to handle this dispute?
3. **If you have a COI or don’t agree** with the selected certified IDR entity, review the list of certified IDR entities and **select an alternative preferred certified IDR entity**. Do not select a certified IDR Entity with which you have a COI.
4. If you do not agree that the Federal IDR process applies to this dispute or an item or service included in this dispute, you should attest that the process does not apply and provide documentation supporting why the Federal IDR process does not apply.

- **Important:** If we don’t receive a response from you by **3/26/2024** the preferred certified IDR entity selected by **[Provider]** for this dispute will be selected unless the certified IDR entity is unable to attest that it has no COI. **Be advised the above IDRE Entity Selection Response form link will expire at 11:59 PM ET on the day your response is due.**

  ResourcesFor guidance related to your role in the Federal IDR process, please see the Federal IDR Guidance for Disputing Parties.

- Visit the No Surprises website for additional IDR resources.

- **Contact information**

  For questions, contact FederalIDRQuestions@cms.hhs.gov. Reference your IDR reference number above.

  Thank you,
  The IDR Review Team

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Paying the IDR fee.

Once a claim is submitted to the arbitrator, both parties must submit a fee with their arguments.

Arbitrator fees can be paid either check or ACH.

It is imperative as soon as you get the notice to call the IDR arbitrator to get the W9 and pay as soon as possible.

Most arbitrator will place a default judgment if payment is minutes late.

Which is bad because you do not lose the case on the merits.

Factors the arbitrator weighs.

- Level of training and experience, along with quality and outcome measures, of the provider,
- Market share of the provider,
- The acuity of the patient or the complexity of furnishing the service,
- Teaching status, case mix and scope of services of the provider and
- Demonstration of good faith efforts (or lack thereof) by either side to enter into a network agreement, along with contracted rates between the sides during the previous four years, if applicable.

The IDR entity experience

- Providers have won 77% of payment determinations, while health plans prevailed in 23%.
- Air Ambulances win almost 100% of the time.
- Private Equity Companies play a huge role in this. Four organizations accounted for about two-thirds of all cases.
- Providers are winning IDR cases and wins yield them nearly three times the usual in-network rates offered by payers.’
- As of June 2023, over 490,000 disputes have been submitted.
- 61% of the disputes are unresolved.

Future of the IDR

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