

Legal Update

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Final Rule Implements Ban on Surprise Medical Billing

On Aug. 19, 2022, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) jointly released a [final rule](#) implementing the ban on surprise medical billing under the No Surprises Act (NSA), which was enacted as part of the [Consolidated Appropriations Act, 2021](#) (CAA). This rule finalizes two interim final rules released in [July 2021](#) and [September 2021](#), with certain changes related to the independent dispute resolution (IDR) process that has been the subject of ongoing litigation.

The Departments also released [FAQs](#) on NSA implementation in conjunction with the final rule that provide more detail on the surprise medical billing ban.

Surprise Medical Bills

Surprise medical bills occur when patients unexpectedly receive care from out-of-network providers (for example, treatment at an in-network hospital involving an out-of-network doctor). Patients often cannot determine the network status of providers during treatment to avoid additional charges and, in many cases, are not involved in the choice of provider at all.

Overview of the Final Rules

The final rule is generally intended to make certain medical claims payment processes more transparent and clarify the process for providers and health insurers to resolve their disputes. It:

- Implements certain disclosure requirements related to information that group health plans and health insurance issuers offering group or individual health coverage must share about the qualifying payment amount (QPA) (generally, the health plan's median contract rate for the item or service in the geographic area);
- Finalizes certain changes related to the federal IDR process in light of ongoing litigation; and
- Requires plans and issuers to disclose additional information in situations where they change a provider's billing code to one of lesser value (lowering the payment to the provider).

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Important Dates

July 1, 2021, and Sept. 30, 2021

Interim final rules to implement provisions of the NSA related to surprise billing were released.

Aug. 19, 2022

Rules implementing the ban on surprise medical billing are finalized.

Jan. 1, 2022

The NSA generally applies to plan or policy years beginning on or after Jan. 1, 2022.

The final rules generally require providers to agree with health plans and issuers on a payment amount instead of billing patients for unpaid balances.