



ALERTS

Evolving Requirements For Good Faith Health Care Cost Estimates Under New Law

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Highlights

Indiana's new surprise billing statutes have currently applicable and future requirements

Effective July 1, 2020, practitioners and provider facilities must provide good faith estimates if requested by the patient

Starting next year, a patient request will no longer be a prerequisite, as providers must supply good faith estimates to all patients prior to the delivery of services

The Indiana General Assembly passed House Enrolled Act 1004 (HEA 1004) earlier this year in an effort to protect patients from surprise billing, among other things. The bill was signed into law by Gov. Eric Holcomb on March 18.

While the statutes enacted through the new law impose staggered effective dates with increasing requirements related to the provision of good faith estimates by practitioners and facilities – including hospitals, ambulatory surgery centers, abortion clinics, birthing centers, facilities providing diagnostic services, laboratories, radiologic and electromagnetic imaging centers, and infusion centers – providers have obligations under

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the statutes that are currently in effect.

In an effort to stem surprise billing, the new statutory provisions require practitioners and facilities, known as “affected providers,” to furnish good faith estimates of the charges for nonemergency health care services provided at health care facilities, including ambulatory surgery centers.

The first phase, which went into effect on July 1, 2020, (as implemented through IC 25-1-9.8 for practitioners and IC 27-1-46 for provider facilities), requires affected providers to provide a good faith estimate of the charges for scheduled nonemergency health care services upon the request of the patient.

This applies to all patients except for those who are Medicaid beneficiaries – e.g. in-network, out-of-network, private pay, and Medicare. The good faith estimate must be provided within five business days of the receipt of the request and must meet certain minimum requirements as outlined in the statute.

HEA 1004 creates a series of complex statutory requirements with present and future implications. As part of this first phase, affected providers must notify patients of their right to request a good faith estimate. Practitioner and facility waiting rooms and websites must display conspicuous printed notice letting patients know that they have a right to ask for an estimate of the amount he or she will be charged for medical services provided and that the law requires such estimates to be provided within five business days. In addition, any practitioner that orders nonemergency health care services for a patient must provide an electronic or paper copy of a written notice.

The second phase, which goes into effect on July 1, 2021, (as implemented through IC 27-1-45), removes the requirement that a patient must make a request prior to the provision of a good faith estimate. Under this increased standard, starting in 2021, an affected provider must provide a good faith estimate of the amount intended to be charged for each health care service at least five days before the scheduled service. That requirement is waived only in the case of emergency services or when the health care service is scheduled to be performed within five days of being ordered.

In addition, there is also a new consent requirement tied to good faith estimates for out-of-network practitioners that goes into effect on July 1, 2020. Out-of-network practitioners who provide health care services at an in-network facility may not be reimbursed more than allowed by the patient’s network plan unless a separate notification form is sent along with the good faith estimate to the patient at least five days prior to the scheduled service.

The notification must alert the patient to 1) the intent to charge more than allowed by their network plan and 2) the fact that they cannot be charged that much unless they give written consent. The patient must sign the provided notification form to proceed or decline to move forward with the scheduled service.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Michael Grubbs at 317-231-7224 or michael.grubbs@btlaw.com. Meagan Dimond is a co-author.

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