
Footnotes for No Surprise Billing: Rules for Charging Self-Paying Patients

¹ The No Surprise Billing Rules implement the No Surprises Act. They were issued in two parts. Part I governs limits on balance billing and out-of-network provider charges (45 CFR 149.410-.450, 86 FR 36872 (7/13/21); Part II covers good faith estimates for self-pay and uninsured patients (45 CFR 149.610), the dispute resolution process for bills exceeding the estimate (*Id.* at 164.620), and dispute procedures for charges exceeding out-of-network rates (*Id.* at 149.510). (86 FR 55980 10/7/21).

² For an overview of the requirements, HHS published Self-Pay Rules [FAQs](#).

³ 45 CFR 149.610(g).

⁴ Uninsured (or self-pay) individual means: “(A) An individual who does not have benefits for an item or service under a group health plan, group or individual health insurance coverage offered by a health insurance issuer, Federal health care program (as defined in section 1128B(f) of the Social Security Act), or a health benefits plan under [chapter 89 of title 5, United States Code](#); or (B) An individual who has benefits for such item or service under a group health plan, or individual or group health insurance coverage offered by a health insurance issuer, or a health benefits plan under [chapter 89 of title 5, United States Code](#) but who does not seek to have a claim for such item or service submitted to such plan or coverage.” *Id.* at 149.610(a)(2)(xiii).

⁵ “Provider means a physician or other health care provider who is acting within the scope of practice of that provider’s license or certification under applicable State law, including a provider of air ambulance services.” 45 CFR 149.610(a)(2)(viii).

⁶ “Facility” refers to a licensed health care institution, such as a hospital or hospital outpatient department, critical access hospital, ambulatory surgical center, rural health center, federally qualified health center, laboratory, or imaging center. *Id.* at (a)(2)(vii).

⁷ Expected charge refers to the provider’s cash pay rate for an uninsured or self-pay patient, reflecting any discounts for such individuals. *Id.* at (a)(2)(v).

⁸ Provided the care or procedure is scheduled at least 3 days before the anticipated date of service.

⁹ *Id.* at (b)(1)(i-ii). Uninsured (or self-pay) individual means: “(A) An individual who does not have benefits for an item or service under a group health plan, group or individual health insurance coverage offered by a health insurance issuer, Federal health care program (as defined in section 1128B(f) of the Social Security Act), or a health benefits plan under [chapter 89 of title 5, United States Code](#); or (B) An individual who has benefits for such item or service under a group health plan, or individual or group health insurance coverage offered by a health insurance issuer, or a health benefits plan under [chapter 89 of title 5, United States Code](#) but who does not seek to have a claim for such item or service submitted to such plan or coverage.” *Id.* at 149.610(a)(2)(xiii).

¹⁰ *Id.* at (b)(1)(iii)(A-C).

¹¹ This link contains a bundle of 11 documents that can be downloaded, including the Model Notice.

¹² A GFE contains a list of expected charges for scheduled or requested care including other items or services that are reasonably expected to be provided in conjunction with that care. *Id.* at (a)(2)(vi).

¹³ *Id.* at (b)(1)(iv).

¹⁴ *Id.* at (b)(1)(vi)(A-C).

¹⁵ <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimates-FAQ-Part-2.pdf>

¹⁶ The GFE required elements are listed at 45 CFR 149.610(c).

¹⁷ This link contains a bundle of 11 documents that can be downloaded, including the Model GFE.

¹⁸ *Id.* at (b)(1)(x)(A)&(B).

¹⁹ *Id.* at (e)(1).

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at (e)(2).

²³ This includes but is not limited to changes in charges, items, services, frequency, recurrence, duration, providers, or facilities. *Id.* at (B)(1)(VII).

²⁴ *Id.* at (f)(1).

²⁵ All requirements for the dispute resolution process are contained in 45 CFR § 149.620.

²⁶ HHS has published an overview of the dispute resolution process which includes examples to illustrate how an arbitrator will make a determination. <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimate-Patient-Provider-Dispute-Resolution-Process-for-Providers-Facilities-CMS-9908-IFC.pdf>

²⁷ 45 CFR 149.620 at (c)(5) & (6).

²⁸ 42 USC § 300gg-134(b); 45 CFR § 150.501(a).

²⁹ 42 USC § 300gg-134(a)-(b); 45 CFR §§ 150.101(b)(3), 150.501(a), and 150.513(a).

³⁰ 45 CFR 149.610(a)(2)(ii) & (iii).

³¹ *Id.* at (b)(1)(v).

³² <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimates-FAQ.pdf>