



Building a better working world



Regulatory brief: How to get ready for good faith estimates

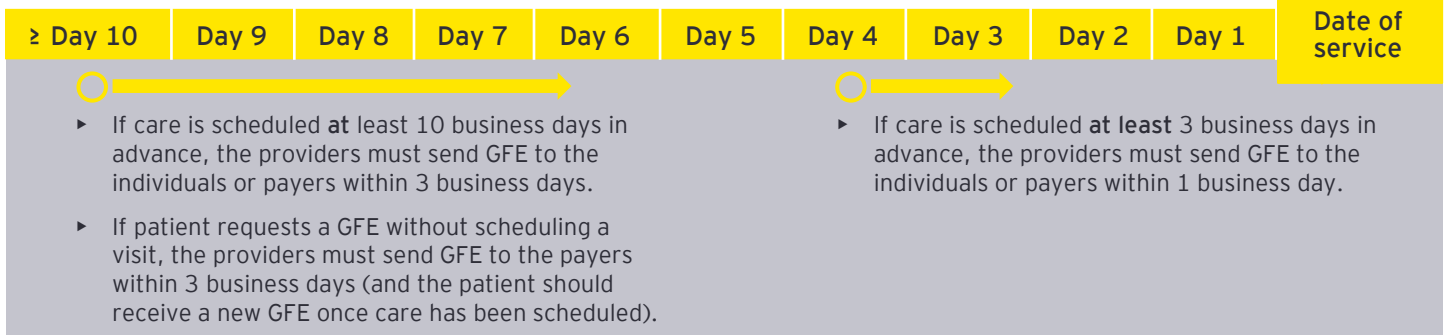
Navigating the ever-evolving timeline for surprise billing requirements, such as the good faith estimate (GFE), can be daunting. But now is the time for physician and hospital leaders to ensure compliance with GFE provisions are in place, assess organizational readiness to comply with upcoming regulations and consider how to best leverage rules to a strategic advantage.

Overview

On December 27, 2020, the No Surprises Act was signed into law as part of the Consolidated Appropriations Act of 2021. The No Surprises Act puts in place new information sharing requirements for both providers and payers that aim to protect patients from receiving surprise medical bills. This briefing provides a high-level overview of the new good faith estimate (GFE) requirements for self-pay and insured individuals, including the financial impact for providers. These rules require physician and health system executives to review and, when applicable, update their operational and financial processes.

This is not just a compliance exercise, although that aspect is undeniably important. If implemented successfully, the rules offer an opportunity for providers to deliver on demands for enhanced patient experience and frictionless care delivery, better positioning themselves in the market. Ensuring a smooth scheduling and billing experience in which providers and payers work together to ensure patients have a good sense of their expected costs before the date of service can help providers compete in an increasingly dynamic market.

Timeline for pre-service GFE delivery



Understanding the GFE requirements

Under the GFE requirements, upon scheduling a service, or if requested by an individual, all state-licensed or certified health care providers and facilities now have a set number of days to send a GFE of the charges and billing codes expected to be provided as part of the scheduled visit. It's important to remember that the "convening provider" (the provider or facility responsible for scheduling the primary items or services) also must include charges and billing codes for items or services that may be provided by other providers and facilities. Those so-called "co-providers" or "co-facilities" must be prepared to submit related charges and billing code information to the convening provider within 1 business day of the request. This process looks slightly different depending on the patient's insurance status. For example:

- ▶ **For uninsured or self-pay individuals**, the convening provider or facility must send the GFE to the individual.
- ▶ **For insured patients**, the convening provider or facility must send the GFE to the individual's health plan. It is then the plan's responsibility to include the GFE in an Advanced Explanation of Benefits. (*Note: CMS has not yet issued regulations on the GFE process for insured individuals. Further guidance is expected.)

Click below for more details in Appendix A

- [GFE requirements for convening provider or facility](#)
- [GFE requirements for co-provider/co-facility to submit to convening provider/facility](#)

While the process may look different, the timeline for GFE delivery, per the law, is the same regardless of a patient's insurance status.

GFE compliance and enforcement

The GFE provisions of the No Surprises Act took effect January 1, 2022. However, federal agencies temporarily delayed enforcement for certain parts based on an individual's insurance status.



Enforcement timeline for GFEs

January 1, 2022

- ▶ **Uninsured (or self-pay): partial enforcement**
HHS will only enforce GFE requirement in cases where the GFE excludes expected provider and facility charges.
- ▶ **Insured: delayed enforcement until further notice**
Federal agencies have delayed GFE requirement until the new data transfer standards can be adopted.

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HHS is expected to issue GFE regulations for insured individuals sometime in 2022.

January 1, 2023

- ▶ **Uninsured (or self-pay): full enforcement**
HHS is expected to begin full enforcement of GFE requirements for uninsured (or self-pay) individuals begins.

Providers and facilities that fail to meet requirements could face additional action from states or the federal government. For example, if the actual charges are at least \$400 more than what is listed in the GFE sent to self-pay patients, the patient has up to 120 days of receiving the bill to challenge the amount via a Selected Dispute Resolution (SDR) process. Providers and facilities that do not expect SDR challenges due to their patient population or policies also could face enforcement actions by state or federal agencies for non-compliance with the rules, including but not limited to civil monetary penalties of up to \$10,000 per violation.

And remember, we are awaiting final rules on the insurer patient population GFE process. Therefore, it is imperative for physician and hospital leaders to ensure they are taking the appropriate steps to ensure compliance with the new rules.

Moving toward compliance

- ▶ **Develop new workflows** to address requests when building GFE capabilities.
- ▶ **Enable care teams** to provide treatment plan templates by diagnosis/procedure, which are the foundation for the GFE and billing codes.
- ▶ **Identify the care period** and accounting for the other providers and facilities involved within the care period.
- ▶ **Build pre-pay capabilities** to enable upfront procedure payment data mapping, with co-pay and deductible estimators, to provide a reasonable GFE.

Questions to consider

1

Have you completed a thorough readiness assessment to determine your level of financial and operational exposure under the Good Faith Estimate requirements? Are you in compliance with the provisions already in effect?

2

How can you strengthen or forge cross-industry partnerships with insurers, providers, and technology companies to improve the consumer experience and facilitate the estimate and billing process?

3

How can you leverage the new surprise billing rules – both GFE provisions and beyond – to strengthen your position in your local market?

Contact

For more information, please contact HealthRegulation@ey.com

References

1. Department of Labor, FAQ, August 20, 2021. <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-49.pdf>
2. Centers for Medicare and Medicaid Services, FAQ About Good Faith Estimates (GFE) for Uninsured (or Self-pay) Individuals, October 7, 2021. <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimates-FAQ.pdf>
3. Consolidated Appropriations Act, 2021: Title I No Surprises Act, December 27, 2020. <https://www.congress.gov/116/plaws/publ260/PLAW-116publ260.pdf>



Appendix A

GFE requirements for convening provider or facility

- ▶ Patient name
- ▶ Patient date of birth
- ▶ Description of primary item or service, and if applicable, scheduled date.
- ▶ Itemized list of items or services, grouped by each provider or facility, reasonably expected to be provided for primary item of services
- ▶ Itemized list of items or services, grouped by each provider or facility, reasonably expected to be in conjunction with the primary item of services for the care period, including items and services provided by the convening provider and items and services provided by co-providers or co-facilities
- ▶ Applicable diagnosis codes, expected service codes, and expected charges associated with each item or service
- ▶ Name, National Provider Identifier (NPI), and Taxpayer Identification Number (TIN) of each provider or facility included in the GFE, and the state(s) and office or facility location(s) where the items or services are expected to be furnished by such provider or facility
- ▶ List of items or services that the convening provider or facility expect will require separate scheduling and occur before or after the period of care for primary service, including a disclaimer that a separate GFE with full diagnostic codes and billing details will be issued for those services upon scheduling or patient request
- ▶ Disclaimer informing the uninsured or self-pay individual that additional items or services recommended as part of the course of care but scheduled separately are not part of the GFE
- ▶ Disclaimer informing the uninsured or self-pay individual that the GFE is only an estimate and actual items, services, or charges may differ.
- ▶ Disclaimer informing the uninsured or self-pay individual of their right to initiate the patient-provider dispute resolution process if actual billed charges exceed expected charged by at least \$400, including where the patient can find information to begin the dispute resolution process.
- ▶ Disclaimer informing the uninsured or self-pay individual that the GFE is not a contract and does not require the individual to get the listed items or services.

GFE requirements for co-provider or co-facility to submit to convening provider/facility

- ▶ Patient name
- ▶ Patient date of birth
- ▶ Itemized list of items or services reasonably expected to be provided by the co-providers or co-facilities in conjunction with the primary item or service
- ▶ Applicable diagnosis codes, expected service codes, and expected charges associated with each item or service
- ▶ Name, NPI, and TIN of each provider or facility included in the GFE, and the state(s) and office or facility location(s) where the items or services are expected to be furnished by such provider or facility
- ▶ Disclaimer informing the uninsured or self-pay individual that the GFE is not a contract and does not require the individual to get the listed items or services.

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