

Updates in Surprise Billing

Our [last update on Surprise Billing](#) legislation was published in mid-April and focused on the roll out of the No Surprises Act, an early lawsuit in Texas, and the fact sheets released periodically by the CMS to clarify various aspects of the No Surprises Act.

Since then, there has been relatively little movement in terms of new fact sheets being released or legislators making adjustments at the state level. However, there has been a growing trend of legal action being taken to combat elements of the No Surprises Act that providers believe is unfair—the most prevalent of which seems to be the requirements related to providing good faith estimates.

To date, there are at least eight lawsuits currently underway. These actions have been filed by the following:

- Texas Medical Association and Dr. Adam Corley in the eastern district of Texas
- Association of Air Medical Services in the District of Columbia
- American Medical Association (AMA), the American Hospital Association, Renown Health, UMass Memorial Health, Dr. Stuart Squires, and Dr. Victor Kubit in the District of Columbia
- American Society of Anesthesiologists (ASA), American College of Emergency Physicians, American College of Radiology in the northern district of Illinois
- Georgia College of Emergency Physicians (GACEP) and Dr. Brett Cannon in the northern district of Georgia
- Dr. Daniel Haller (Haller) and Long Island Surgical PLLC in the eastern district of New York
- LifeNet (an air ambulance company) in the eastern district of Texas
- PHI Health (an air ambulance company) and Empact Midwest (an emergency room physician staffing firm) in the eastern district of Kentucky

These lawsuits are potentially the first of many and will help set the precedent for legal disputes over unreasonable elements that still persist in surprise billing legislation. A final independent dispute resolution (IDR) rule is expected to be released sometime early-to-mid summer, which will likely be influenced by the progress and outcomes of these legislative battles across the country.

Beyond filing lawsuits, advocates have taken other approaches to mitigate the burden of the No Surprises Act in their states as well. For example, doctors in Arizona are working on a state ballot measure that would modify the arbitration process and yield what physicians feel would be more fair outcomes. That said, this measure is still in the planning stages and has yet to be implemented. If it proves effective, it could serve as an example of how other providers around the country could collect higher payments for out-of-network services.

Overall, the No Surprises Act is still in its infancy, but the data collected so far suggests that the law has prevented over 2 million surprise billing claims in the first few months—so it is possible that it is achieving at least some of what it set out to. Providers just think some of the requirements it imposes on them are impractical and unfair.

APS will continue to monitor the progress of the legal disputes and the legislative modifications that continue to take place in the evolution of surprise billing. Please contact your Practice Manager if you have any questions regarding how these developments may affect your practice.