

Update: Indiana House Enrolled Act (HEA) 1004

Update

The following is presented as an update to an earlier APS white paper published in the summer of 2020 on the HEA 1004 bill in Indiana (original content found below). As we near the implementation date of July 1, 2021, it is important that providers are prepared for the necessary changes and put into practice the necessary measures to be compliant with the law.

As of July 1, 2020, all individuals (except Medicaid recipients) were entitled to request and be provided a good faith estimate of the cost of services provided. Beginning on July 1, 2021, all providers will have an affirmative duty (that is to say, they must do it) to provide a good faith estimate to covered individuals—in this context, “covered individuals” are defined as those who are entitled to be provided health care services at a cost established according to a network plan. These good faith estimates must be provided at least 5 days before a health care service is provided and require patient consent before moving forward. That said, no good faith estimate is required if the health care service to be provided is scheduled to be performed within 5 business days after the health care service is ordered.

Inability to obtain patient consent does not negate the limitation on balance billing set forth by this legislation. However, because limits on billing rates are determined by the network plan of a covered individual, there are, practically speaking, no such limitations on billing rates for non-covered services.

APS strongly recommends that clients reach out and engage hospitals on how they and other physicians are providing good faith estimates, as pathology needs to be part of that hospital process. We furthermore urge clients and hospitals to be ready to provide good faith estimates no later than July 1, 2021.

As always, if you have any questions, please reach out to your Practice Manager.

Background

In March 2020, Indiana legislators passed HEA 1004 in an effort to increase price transparency, eliminate “surprise billing,” and provide good faith estimates of cost of services to patients before they are rendered. This bill has been controversial since its inception and comes in the wake of nationwide efforts to achieve similar results, albeit with varied approaches. Although this bill has been officially signed into law already, the Indiana Hospital Association, amongst others, has advocated for some changes to be implemented to the law and to have the date of enforcement be pushed back from July 1, 2020 to July 1, 2021 for all sections of the law. The Governor has yet to render a decision regarding these requests, and, until such a decision is made, practitioners should proceed on the assumption that the legislation will be enforced forthwith.



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Summary

In regard to “surprise billing,” HEA 1004 limits out-of-network (OON) providers from charging anything in excess of the average in network rates determined by a covered individual’s insurance plan if they are provided in an in-network facility, unless the following has been met:

- At least 5 days in advance of providing services, the patient is given a good faith estimate of the charges and is informed in writing that the facility or practitioner expects to charge them more than is covered by their network plan.

AND

- The covered individual signs a statement agreeing to pay the higher rate.

These provisions come with additional requirements and create some practical difficulties. If the two conditions above are not met, the practitioner must provide a statement in 14-point font or larger that informs the patient they are not required to pay anything in addition to their network rates, plus any applicable copayment, deductible, or coinsurance. If the rates exceed what the practitioner originally estimated, then the patient must be provided an explanation of why the bill is higher than expected in writing. In many instances, providers do not meet face to face with patients and/or have many factors that determine what services will be provided, which cannot be determined prior to the procedure. Naturally, this makes it exceedingly difficult, sometimes impossible, to fully comply with the requirements of the law as written.

The bill also includes language requiring facilities to have a “conspicuous” statement posted in every waiting room acknowledging that patients always reserve the right to request a good faith estimate for non-emergency medical services and agreeing to provide that estimate within 5 business days of the request.

As written, there has been some confusion over what the effective date is for specific aspects of this law, especially since the summary of the law does not mention a 2020 effective date. It seems that facilities may have until July 1, 2021 to implement the “conspicuous” sign allowing requests for and fulfilling good faith estimates, but practitioners are advised to implement and comply with the new provisions of the law as soon as possible to avoid violating these new and sometimes confusing regulations.

As stated earlier, advocates are still pushing for the effective date to be pushed back to July 1, 2021 for the entire bill, as well as make alterations to some of the less reasonable provisions. APS will continue to closely monitor these developments and will likely post an update once Indiana’s Governor has made a decision regarding this request. If you have any questions on how this legislation may impact your business and billing practices, please contact your Practice Manager.