



No Surprises Act

What doctors of optometry need to know

What is the No Surprises Act?

On Dec. 27, 2020, the No Surprises Act (NSA) was signed into law. The NSA is aimed at addressing situations in which patients receive surprise medical bills when they inadvertently or unknowingly receive care from an out-of-network provider. The Departments of Health and Human Services (HHS), Treasury and Labor have developed several regulations to implement the law.

What are the [new protections](#) for patients?

The following new protections for patients do not apply in physician offices but may apply in other settings where doctors of optometry provide clinical care:

- Ban surprise billing for emergency services. Emergency services, even if they're provided out of network, must be covered at an in-network rate without requiring prior authorization.
- Ban balance billing and out-of-network cost-sharing (such as out-of-network coinsurance or copayments) for emergency and certain non-emergency pre-scheduled care. In these situations, the consumer's cost for the service cannot be higher than if these services were provided by an in-network provider, and any coinsurance or deductible must be based on in-network provider rates.
- Importantly, none of these provisions apply to care provided in physician's offices.

What is considered emergency care?

Under the NSA, the definition of emergency services includes care provided in emergency departments of hospitals and in independent, freestanding emergency departments. Emergency care is not considered care provided in a physician's office, such as the office of a doctor of optometry.

What is considered non-emergency care?

Under the NSA, the definition of non-emergency care includes care provided in hospitals, hospital outpatient departments, critical-access hospitals and ambulatory surgical centers. Non-emergency care, for the purposes of this new law and corresponding regulations, does not include care provided in a physician's office, such as the office of a doctor of optometry.

When do these new rules go into effect?

They go into effect on Jan. 1, 2022.

How do these rules really impact doctors of optometry?

These rules are targeted foremost at facilities such as hospitals. Doctors of optometry providing care at facilities that provide emergency or non-emergency care, as delineated above, could be impacted by these new rules.

What else does the NSA do that might impact doctors of optometry?

The NSA also calls on key federal agencies to issue rules to fully implement Section 2706(a) of the Public Health Service Act (PHSA), also known as the Harkin Law, by Jan. 1, 2022. Originally included as part of the Affordable Care Act as AOA's key victory in the 2010 battle over health care reform, this PHSA section prohibits insurers from limiting patient access to covered services provided by certain categories of health care professionals, including doctors of optometry, providing care within the bounds of their state-licensed scope of practice. While AOA has successfully pushed plans to comply with Section 2706(a), this nondiscrimination law has never been fully enforced by state or federal regulators, who have instead favored a ["hands-off" approach](#). However, increasing examples of access restrictions makes it clear vigorous enforcement is needed now more than ever.

The NSA also requires that patients be provided with "good faith estimates" of costs of certain procedures for certain patients.

What facilities are required to provide good faith estimates for uninsured patients?

Any state- or locally licensed health care institution (e.g., hospitals, critical-access hospitals, ambulatory surgical centers, rural health centers, federally qualified health centers, labs, imaging centers, etc.) must comply with new requirements related to providing good faith estimates for uninsured patients.

When do the good faith estimate requirements go into place?

Jan. 1, 2022, is the implementation date for providing good faith estimates to uninsured patients seeking care at one of the facilities covered under the rule (as outlined above).

Are physicians solely responsible for providing good faith estimates?

These estimates will typically be managed by those individuals in charge of scheduling patient care at the applicable facilities impacted by these rules, rather than individual physicians.

Do good faith estimates need to be provided to insured patients seeking care in facilities impacted by the rule?

Enforcement of the provisions in the NSA that apply to providing good faith estimates to insured patients has been delayed.

What should be included in the good faith estimate?

HHS has indicated that facilities should provide a single, comprehensive, good faith estimate to patients. This is recommended in lieu of providing separate good faith estimates from each person or facility involved in the care.