

No Surprises Act: Good Faith Estimate Frequently Asked Questions

I'm confused about the NSA and my obligations as an OD. Did AOA guidance change?

Based on additional information from the Department of Health and Human Services (HHS) AOA updated our guidance. There are several provisions in the NSA. The majority of the requirements apply only to care provided in certain types of facilities, such as hospitals and ambulatory surgical centers (ASCs). These regulations prohibit these facilities from billing patients more than in-network cost sharing amount for surprise medical bills. There is also a balance billing prohibition which already applied to doctors of optometry.

However, there is a separate provision--the Good Faith Estimate (GFE) provision of the No Surprises Act which HHS had decided to apply far more broadly than the other requirements. HHS has clarified that the GFE provision applies to "all providers and facilities that schedule items or services for an uninsured (or self pay) individual or receive a request for a GFE from an uninsured (or self-pay) individual must provide such individual with a GFE. **No specific specialties, facility types, or sites of service are exempt from this requirement.**"¹

Given that the overall focus of the NSA was to address surprise hospital bills, the HHS decision to apply the GFE requirements to all specialties and sites of service is not in line with what Congress intended from AOA's perspective. Our guidance has been updated to reflect the clarification from HHS on GFEs.

Where does AOA get information on HHS regulations?

We work directly with the Department of Health and Human Services to understand the requirements and impact of any new rulemaking. There are also many sources of information online. Information regarding the NSA can be confusing because there are a number of provisions included in the law and some only pertain to certain facilities. The Good Faith Estimate provision applies to all doctors of optometry.

There new rules are a significant burden, what is AOA doing?

Our discussions with HHS are ongoing and we have asked for a delay in enforcement of the Good Faith Estimate provision and we have also recommended a small practice exemption be developed. This is a top priority for AOA. We urge you to make your voice heard by using our customizable template letter to the HHS Secretary to be hand delivered by AOA.

Is this only impacting optometry?

No, as noted above, there are no exclusions for the GFE requirements. AOA has jointly partnered with the following organizations to request an HHS enforcement delay and small practice exclusion:

¹ <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimates-FAQ.pdf>



American Nurses Association, American Physical Therapy Association, American Podiatric Medical Association, American Speech Language Hearing Association, National Association of, Pediatric Nurse Practitioners, National Association of Social Workers, National League for Nursing.

I don't accept my patient's insurance, does that mean I need to issue a GFE?

The regulations indicate that patients that are uninsured or who have benefits but aren't using them are supposed to receive a GFE. When the patients calls to schedule an appointment, front office staff would typically inform the patient that their insurance is not accepted. The patient would then be self pay and should receive a GFE The GFE starts verbally over the phone and then must be followed up with one in writing.

Does AOA have a GFE template?

Yes, it is customizable and available here:

We see patients everyday that order contacts and/or glasses after they have their exam. They have insurance for the exam but not for the materials. We discuss the costs, they order and pay. Do we need a GFE for that?

When the patient calls for their appointment, they would typically note the are scheduling an eye exam and are using their benefits. A GFE would not be triggered for this insured patient since the patient is not self pay for the exam. Once it is determined the patient will also need materials (glasses or contacts) then a GFE for materials would need to be given. That can be verbal but must be followed up with a written GFE.

What if you give a patient a GFE for exam and glasses, and the patient ends up purchasing multiple pair of glasses, causing the cost to go up over the \$400 amount? Will we be penalized for that?

Potential penalties will only come about if a patient submits a complaint to HHS. HHS would then investigate the complaint. In this case, it seems clear that the costs were due to patient choice and the patient would not have a reasonable case for a complaint or recourse. AOA's template GFE includes language on the inherent variances that can occur. However, to cover yourself, if the self-pay patient decides to buy additional pairs of glasses, then give a new GFE for the additional purchases.

Does the verbal GFE meet the time requirement? I typically don't collect personal info (mailing/email addresses) until the patient actually comes is so can I wait to give them the paper copy when they come in?

While HHS has outlined a timeframe for providing GFEs, you would likely not face any penalty for providing the GFE verbally over the phone and then in writing when the patient comes to the office—even if it is beyond the outlined timeframes that HHS specified.

I understand giving an estimate verbally when they call but I want to clarify - if they don't make an appointment do you still have to follow up with a written GFE?

The regulations currently indicate you should follow up with a written GFE. You can send electronically if you have enough personal information to do so.



Am I supposed to guess if the patient plans to order contacts or glasses in addition to the examination?

No. If you don't reasonably believe that the patient will order contacts or glasses, you do not need to include those estimates on the GFE form. If a patient calls and say they are uninsured and want to come in for an exam and glasses, you should attempt to provide an estimate for those costs. You could also note on the estimate that the patient's choice could impact the costs. AOA's template GFE includes language on the variances that can occur related to contact lenses and glasses. Because glasses and contact lens prices can vary greatly, you can verbally quote a range of fees over the phone. Once the patient is in your office and decides specifically what they want to consider purchasing, then you can give them a written GFE for their glasses and/or contact lenses.

If the patient uses a vision plan for exam and spectacles, which utilizes their material benefit, but also wants to also purchase contact lenses, would you need to provide a GFE for the contact lenses if they are non-covered.

The GFE would be triggered at the time you determine the patient has no insurance benefit. In this scenario, that happened after they decided to buy glasses (using their material benefit) but also wanted to purchase contact lenses. If this is telephone discussion, then you would offer the GFE over the phone verbally. If it is during the time in your office, then the GFE would be triggered for contact lenses after the decision was made in your office to purchase glasses with their material benefit. They exhausted their material benefit on glasses and need a GFE for contact lenses.

Can a price range be given for different levels of complexity, for example, with contact lens fittings?

At this point, the regulations seek a specific cost estimate, rather than a range. AOA's template GFE includes language on the variances that can occur. However, it is common for glasses and contact lenses to range in price. It is permitted to give a range when talking about general services or items. As an example, "Our eye exam is \$x and our glasses range from \$y to \$z. Once you are here, we can determine what vision needs you have and then give you a more specific expected cost." Once in your office and you know what glasses they want to purchase, you would then give a GFE (if self-pay).

If a patient has a third party vision vendor are those considered insurance?

Yes, that is considered insurance. GFE is not needed if using third party insurance. Discount plans are also considered insurance.

Patient has insurance but has a high deductible plan and states they know they will have to pay for the service. Are you required then to provide a GFE.

The patient has insurance in this case, so you would not need a GFE. Regardless of their out of pocket payments required by their insurance.

If they are using their vision plan, but not their medical insurance/ true health plan do they still need a GFE for exam, glasses, etc?

No. This patient would be considered to have insurance based on their vision plan so they would not be self-pay or uninsured. Only self-pay and uninsured patients need a GFE.



Are you forced to register a potential new patient who does not schedule? You would need their info and a way to generate and keep it?

If a patient does not ultimately schedule an exam you would not need to retain the GFE. By the time a self-pay patient arrives to your office, they should either already have the written GFE or be given a GFE when they arrive—before services commence.

Why are the doctors required to list TIN and NPI on these forms?

HHS would like to easily be able to identify the physician who issued the GFE in the case that a complaint is initiated.

Just to be clear, if you give a GFE and the cost of services are more than \$400 then the patient can refuse to pay and we would have no leg to stand on?

No. You will have an opportunity to dispute a patient complaint. If a patient submits a complaint and HHS agrees that the patient was overcharged or misled about charges, the patient would have to pay the amount on the GFE. If HHS believes the charges were fair, the patient has to pay the full amount. Self-pay patient would be expected to pay at the time of service (or whatever your internal policy is for receiving self-pay payments).

Can the patient be given a GFE for the exam, and then an additional one for glasses at the end of the visit before they are billed?

Yes. The patient started with a GFE for an exam. After the exam, they decided to purchase glasses. Give a new GFE for the glasses. If the patient agrees to the charge on the GFE, then collect the payment (or whatever your internal policy is for self-pay glasses sales).

Do we have to line item every aspect of glasses (example: frame, lens, AR, UV, etc)?

No. While it is best practices to itemize as much for your patient as you can, you can describe the item on the GFE as eyeglasses with a total charge.

If we are emailing GFE with name and DOB, how does that correlate with HIPAA?

Under HIPAA, the Department of Health and Humans Services does not specifically preclude the use of e-mail for sharing patient health information. However, HHS does indicate that physicians needs to take reasonable precautions to protect patient health information (e.g. make sure the email address is correct, send only necessary information). HHS also doesn't specifically require the use of encrypted email, if there are other ways to ensure the security of the message. If you are sending a good faith estimate to a patient, if the patient indicates it is acceptable to send the message through unencrypted email (e.g. google, yahoo) , it would be acceptable to do so. You should ensure you've documented that consent.

Is it possible to make a listing of our complete fee schedule, then check off or circle the expected services and items, and then provide a total cost to the patient provided that we also include the required info... NPI, TIN, etc?

You could approach it this way. You would just need to ensure you include the required disclaimers.



When scheduling an appointment for an exam, do we have to assume that a patient will want to order spectacles in our office? Or contacts if we know them be a CL contact wearer?

HHS indicates you are supposed to include estimates for charges that “reasonably” would be expected with the primary charge. But patients are reasonably expected to buy their glasses or contacts anywhere. You are not required to anticipate they will purchase from you. If the patient is in your office and is making a decision to purchase materials, then give the GFE at that time.

Do we need to give a GFE estimate to patients who do not ask for one?

You are supposed to give GFEs to patients who are uninsured or who have insurance but are not using it. For these patients, the GFE is supposed to be provided even if the patient does not request it.

If a patient comes in, expects to use their insurance and later insurance denies coverage - what then?

No GFE is required in this situation because you used an insurance that was anticipated to work.

I don't understand why glasses or contact lenses are covered under this law. A patient is always told what the cost of these lenses are and the charge is always collected before the product is ordered. An order is only completed and patient is liable if they pay for the contact lenses or glasses. Why would this be covered under the law?

The rule defines “items and services” as all encounters, procedures, medical tests, supplies, prescription drugs, durable medical equipment, and fees (including facility fees), provided or assessed in connection with the provision of health care.

Is vision therapy equipment covered under this?

Yes, the rule defines “items and services” as all encounters, procedures, medical tests, supplies, prescription drugs, durable medical equipment, and fees (including facility fees), provided or assessed in connection with the provision of health care. You can verbally estimate the cost of the exam over the phone and indicate that the costs of equipment may vary and give a range. Once it is determined specifically what the self-pay patient needs, then you can give a written GFE with specific costs.