



Long Awaited No Surprises Act Final Rule Issued

On August 19, 2022, the U.S. Departments of Health and Human Services (“HHS”), Labor (“DOL”) and Treasury (“IRS”) (collectively “the Agencies”) issued the third Final Rule implementing the No Surprises Act (the “Act”), designed to prevent surprise medical bills and increase health care price transparency in both group and individual health plans.

Final Rule: Overview

Primarily addressing the regulatory provisions invalidated by the District Court regarding how reimbursement amounts for out-of-network providers will be calculated when a dispute goes to arbitration, the Final Rule also removes the “rebuttable presumption” that the most appropriate rate is the one closest to the qualifying payment amount (“QPA”), the health plan’s median contracted rate for the same service with issuers in the same geographic area, adjusted for inflation. The Final Rule requires payers to provide additional information to providers about how the QPA was calculated to improve the transparency of the arbitration process.

In addition, the Agencies released a fact sheet on the Final Rule, a series of Frequently Asked Questions (“FAQs”) on the Final and Interim Final Rules, updated guidance on the dispute resolution process, and technical guidance for certified independent dispute resolution (“IDR”) entities, which covers eligibility, the batching and bundling of items and services into one dispute, and the failure of a party to submit required information in response to an IDR entity’s request.

Covered plans subject to the Final Rule include fully insured plans, self-insured plans, private employment-based plans subject to ERISA and the ACA (grandfathered and non-grandfathered group health plans), non-federal governmental plans (state and local), church plans, and traditional indemnity plans.

The Final Rule is effective for services or items furnished beginning October 25, 2022, for plan years beginning on or after January 1, 2022. Provisions in the Interim Final Rules published in July and October 2021 that are not finalized in the Final Rule remain in effect and will be finalized in a subsequent final rule.

Next Steps

Many requirements under the Act went into effect for plan years beginning on or after January 1, 2022. Employers and plan sponsors should work closely with their insurance carriers, third-party administrators, and health care providers to ensure compliance prior to that date.

Haynes Benefits has developed a checklist to walk our clients through the complexities of compliance with the No Surprises Act. If you have questions regarding compliance with the Act, please contact a member of our legal team:

<https://www.haynesbenefits.com/about/>

The content herein is provided for educational and informational purposes only and does not contain legal advice. Please contact our office if you have any questions about compliance requirements applicable to your employee benefit plans or other HR compliance matters.

Dated: October 10, 2022

