

New York's Surprise Medical Bill Law Goes into Effect



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New York's Emergency Medical Services and Surprise Bills law went into effect yesterday, which means consumers who receive **out of network (OON)** emergency services will no longer have to pay more than their usual in-network obligations, regardless of the network status of the treating physician, and any disputed portions of the bill must be settled by the physician and the health plan.

Consumers will be protected from surprise bills, and not be responsible for more than their in-network copayment, coinsurance or deductible, if they sign an assignment of benefits form to permit their provider to seek payment from the consumer's health plan and send the form to the plan with a copy of the bill that they believe constitutes a surprise bill. Once the health plan pays the provider an amount that it determines is reasonable, the provider can dispute that amount through the independent dispute resolution (IDR) process. The IDR entity will make a determination within 30 days of receipt of the dispute.

The law not only protects consumers against large bills from OON physicians for

services rendered in an emergency room, but also from bills received from OON providers in cases where a patient has been referred to the OON provider by a participating physician without the required consent. In regulations issued by the Department of Financial Services (DFS) on December 31, 2014 and adopted yesterday, DFS made several key clarifications, including defining the term “health care provider” to include home health agencies and clinical laboratories. DFS also clarified that a surprise bill that results from a referral without the required patient consent includes instances in which a “participating physician sends a specimen taken from the patient in the participating physician’s office to a non-participating laboratory or pathologist.” The consent necessary to avoid a surprise bill is “explicit written consent of the insured acknowledging that the participating physician is referring the insured to a non-participating referred health care provider and that the referral may result in costs not covered by the health care plan.”

Last week, in anticipation of the law’s enactment, DFS issued guidance to (i) insured and uninsured consumers in order to assist them in understanding when they have received a surprise bill and how to protect against responsibility for such bill, and (ii) providers so that they understand not only the meaning of “surprise bill” but their notice and hold harmless responsibilities, and when and how to proceed with the IDR process.

While there are other important aspects of the law that patients, providers and plans should be aware of, including disclosure obligations relating to plan and hospital affiliations and pricing (summarized in more detail in our [prior blog post](#)), the cornerstone of the law is protecting consumers from the financial devastation that can come from receiving a bill for out of network services. Time will tell whether all of the other players in the healthcare space view the law as the equitable solution it is intended to be

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