



# REGULATORY

Advisory & Assurance

## No Surprises Act: Assessing the Scope of the Federal Balance Billing Rules

The federal “Requirements Related to Surprise Billing; Part I” interim final rules refer to providers and facilities in terms of their participation or nonparticipation with a health plan or issuer. Participation means that a provider or facility has a contractual relationship or other arrangement with a plan or issuer to provide health care items and services at an agreed-upon price for participants, beneficiaries, and enrollees (hereafter “Patients”).

Most health plans and issuers have a network of providers and health care facilities who agree by contract to accept a specific amount for their services. By contrast, nonparticipating providers and facilities usually charge higher amounts than the contracted rates that plans and issuers have negotiated with participating providers and facilities. Prior to the No Surprises Act, the nonparticipating provider or facility could generally balance bill the individual for the difference between the provider or facility’s billed charges and the sum of the amount paid by the plan or issuer and the cost sharing paid by the individual, unless otherwise prohibited by state law.

### Providers

Generally, these rules use the term “provider” to mean a physician or other health care provider who is acting within the scope of practice of their license or certification under applicable state law. When a Patient receives care from a nonparticipating provider, the individual’s plan or issuer may decline to pay for the service or may pay an amount that is lower than the provider’s billed charges. This may subject the Patient to greater cost-sharing requirements than would have been charged had the services been furnished by a participating provider.

### Facilities

Even when Patients of the plan or issuer go to a participating facility for emergency care, they may receive care from nonparticipating providers working at that facility. For non-emergency care, a Patient may choose a participating facility, but not know that at least one provider involved in their care (for example, an anesthesiologist or radiologist) is a nonparticipating provider. In either circumstance, the person might not be in a position to choose the provider, or to ensure that the provider is a participating provider.

		Facilities			
		Emergency Care Facility		Healthcare Facility	
		Nonparticipating	Participating	Participating	Nonparticipating
Providers	Participating	✓ (Facility Only)	N/A	N/A	N/A
	Nonparticipating	✓	✓ (Professional Only)	✓	N/A

#### Key

- ✓: No Surprises Act balance billing restrictions apply
- N/A: No Surprises Act does not apply