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No Surprises Act: Good Faith Estimate for Self-Pay Patients

In addition to protecting insured patients from out-of-network costs, the No Surprises Act implements protections for uninsured or self-pay patients. Effective January 1, 2022, healthcare providers and facilities will be required to provide a good faith estimate of charges to a patient for any service that is scheduled at least three days in advance. Where the service will involve multiple healthcare providers, the scheduling provider is required to coordinate with the other providers to gather information necessary to timely provide this estimate, although enforcement of this coordination is delayed until December 31, 2022. The estimate may include disclaimers and explanations of potential unknown factors that may impact the cost.

After the service is provided, if the charge to the patient is substantially more than the good faith estimate, then the patient is permitted to trigger a selected dispute resolution (SDR) process with a CMS-certified SDR entity. The charges are considered to be substantially more than the estimate if they are four hundred dollars more than the estimate provided. In the SDR process, the provider is required to submit the initial estimate, actual charges, and explanation or documentation supporting the difference in the charge. The provider cannot pursue collection or take any adverse action against the patient through this process. The SDR entity decision is binding on the parties.

Healthcare providers and facilities should be implementing necessary processes to timely calculate and provide these good-faith estimates. Where the service will involve multiple providers, the provider who originates scheduling the service is responsible for coordinating with the others to provide a consolidated estimate. Thus, if a patient contacts their orthopedic surgeon's office to schedule a knee

surgery, the surgeon's office would need to coordinate with the other providers that will be involved in that procedure – the facility, anesthesia, assistant surgeon fees, prescription drugs, durable medical equipment, etc. – to create the consolidated estimate. However, the estimate would not include separately scheduled services such as pre-operative laboratory testing, post-operative physical therapy, etc.

To fully implement these requirements, healthcare providers and facilities will need to establish methods to predict the services and related charges that are involved for self-pay patients. This process will trigger an unprecedented level of coordination among providers in the care team to calculate and provide this information in a very short timeframe.

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