

GOOD FAITH ESTIMATES (GFE) WORKSHOP

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The No Surprises Act (NSA)

Establishes new protections against surprise medical bills starting January 1, 2022

Insured Patients

- Providers are banned from billing patients for more than in-network cost-sharing due under patients' insurance in almost all scenarios where surprise out-of-network bills arise.

Uninsured or Self-Paying Patients

- Providers must give a "Good Faith Estimate" of expected charges.

Good Faith Estimate Requirements

- 1. Notice**
- 2. Determine if a Good Faith Estimate is Needed**
- 3. Prepare the Estimate**
- 4. Issue the Estimate to the Patient**
- 5. Evaluate Any Changes to the Estimate**
- 6. Keep the Estimate in the Medical Record**

(1) Notice.

- Post the HHS Notice, “Right to Receive a Good Faith Estimate of Expected Charges,” on the website, in the office, and onsite where scheduling or questions about the cost of items or service occur.
- Must be prominently displayed and published in accessible formats and languages.

(2) Determine if a Good Faith Estimate is Needed

- GFE rule applies to uninsured and self-pay patients *only*.
- Uninsured: No health insurance to include government program beneficiaries.
- Self-Pay: Insured patients choosing to pay directly for services rather than file health insurance. Patients insured by Medicare/Medicaid cannot chose to pay directly for covered services.

Determine if a GFE is Needed Cont.

If patients are uninsured or self-pay, prepare and give the good faith estimate to the patient if any of the following occur:

- (1) the patient asks about the cost of services,
- (2) the patient requests the estimate, or
- (3) services are scheduled.

Note: The good faith estimate is not required in the case of emergency services.

(3) Prepare the Estimate.

- Ensure the GFE is complete and accurate and includes the elements and disclaimers required by the regulation, 45 CFR 149.610(c).

(4) Issue the Estimate in Written Form.

- Item or service is scheduled at least 3 business days before the date it is to be furnished: not later than 1 business day after the date of scheduling
- Item or service is scheduled at least 10 days before it is to be furnished: not later than 3 business days after the date of scheduling
- GFE is requested: not later than 3 business days after the date of the request.

(5) Evaluate Any Changes to Estimate.

No later than 1 business day before the items or services are scheduled to be provided, you must issue a new GFE if you anticipate changes to the charges, items, services, providers, facilities, etc. that will affect the estimate.

(6) Keep the Estimate in the Record.

Always maintain a copy of the good faith estimate as part of the self-pay patient's medical record. If a self-pay patient requests a copy of any good faith estimate, provide any estimate issued within the last 6 years.

The Selected Dispute Resolution (SDR) Process

- If the actual charges are \$400 or more than the charges listed in the good faith estimate, the patient may initiate the SDR process to determine how much the patient must pay.

The Selected Dispute Resolution (SDR) Process

1. Patient submits an initiation notice to HHS within 120 calendar days of the patient receiving the bill.
2. HHS pays the majority of dispute resolution costs through direct contracts with SDR entities, but the non-prevailing party will be assessed a \$25 fee.
3. While the dispute resolution process is pending, the provider or facility must suspend any collection efforts and late fees and is prohibited from taking any retributive action against an individual for initiating the process.
4. HHS selects an SDR entity. The entity has 3 business days to attest it has no conflict of interest, or if not, HHS will select another entity.
5. The selected SDR entity notifies the relevant parties and provides the patient with available resources. Individuals have 21 calendar days to respond to requests for additional information from the entity. The SDR informs all parties if the request is eligible to proceed, upon which time the provider/facility has 10 business days to submit required information.

Penalties for Violating the NSA

According to the September 10th Proposed Rule:

- CMS will be responsible for enforcement by conducting random or targeted investigations of providers/facilities.
- Upon identifying a potential violation, CMS would provide written notice to the provider/facility and would state that a Civil Monetary Penalty (CMP) may be assessed and a corrective action plan may be required.
- Providers/facilities will have a deadline set forth in which they may respond, to be determined by further rulemaking.
- CMP of up to \$10,000 per violation may be assessed.



IMPLEMENTATION HIGHLIGHTS

When & What

GFEs apply to items/services scheduled at least 3 days in advance

Should not apply to on-call or consult services rendered in or generated by the ER/hospital setting that are not "scheduled" at least 3 days prior to being rendered

Includes all items/services "reasonably expected" to be furnished

Don't forget implants and multiple procedures for surgery cases

Public Notice of GFE Availability

Posted on website
and in-office

Plain language

12-point font
(minimum)

Available in
accessible formats

Available in language
spoken by patient

Provided orally when
verbally questioned
about the cost of
items/services

Provider Definitions



Convening provider or facility: the person or entity responsible for scheduling the primary procedure



Co-provider or co-facility: other providers or facilities who will furnish services or items in conjunction with primary service



Example: Surgeon = convening provider
ASC, Hospital and Anesthesia = co-providers/facilities

Duty to Inquire & Non-Covered Services

- Convening Providers must ask patients:
 - If they have a health plan that covers the relevant items or services
 - If so, do they intend to file health insurance or self-pay
 - If they are covered by a federal healthcare program for those items or services
- Non-covered services
 - Patients with private insurance whose plans do not cover the relevant items/services must receive a GFE as they are self-pay for those services
 - Patients covered by a federal healthcare program must receive ABNs, not GFEs for non-covered services



2022 ONLY

Convening providers do not need to include estimates from co-providers/facilities

GFE Content

- List of items/services reasonably expected to be provided
- Patient name & DOB
- Provider names, NPIs & tax-ids
- Provider/facility locations
- Description of primary service/item in understandable language
- Itemized list of services grouped by provider
- Date scheduled, if known
- Applicable dx & CPT/HCPCs codes
- Expected charge for each item/service from convening provider/facility

- List of co-provider/facilities services and contact info for them
- List of items/services that need to be “separately scheduled” before or after scheduled service
 - Ordered, but not scheduled, by convening provider
 - Lab work, cardiac clearance, therapy
 - Include instructions for requesting GFE from them
- Notice of the following disclaimers:
 - GFE is an estimate subject to change
 - GFE is not a contract
 - Additional items/services may be required that are not included on GFE
- Notification of options if bill is \$400 or more than GFE for any service
 - Ask for updated bill to match GFE
 - Ask to negotiate the bill
 - Ask for financial assistance
- Explanation of dispute process

Misc. GFE Reminders

GFEs must be provided in writing based on patient's preferred delivery method

Electronic delivery must allow save/print options.

GFEs required even if expected bill is \$0 (charity care)

GFEs required even if prices are posted.

OON vs in-network pricing not relevant. Practice can set any price for services in the GFE but is bound not to exceed the GFE by \$400 to avoid triggering dispute option.

More Misc. GFE Reminders

GFE must be retained as part of medical record for 6 years

Changes impacting \$ require a new GFE no later than 1 business day before services are rendered

GFE provided upon request without a scheduled service should be re-issued when service is scheduled

Health Sharing Ministries are not "insurance"; GFE required if patients identify as self-pay



GFE Timing Examples

Service scheduled 3 business days in advance:

Notice due 1 day after scheduling

Ethel schedules ESI on Monday, Feb 7
DOS Friday, Feb 11
GFE notice due Tuesday, Feb 8

Service scheduled 10 business days in advance:

Notice due 3 days after scheduling

Sally schedules MRI on Monday, Feb 7
DOS Monday, March 8
GFE notice due Thursday, Feb 10

Request made for GFE by uninsured or self-pay person:

Notice due 3 business days after request

Brian calls on Monday, Feb 7 to ask the cost of MRI.

GFE due Thursday, Feb 10: written GFE required even if amount is given verbally

Patient-Provider Dispute Resolution (PPDR) Criteria

GFE received

Bill received that is \$400
or more than the GFE

Bill date is within 120 days
of filing dispute

Pay \$25 admin fee & apply
with HHS

HHS will outsource to 3rd
party to decide if the GFE
amount, billed amount or
another amount is due to
provider.

Provider may not initiate
collection efforts or any
"retributive" action until
dispute process is
complete.



PUBLIC NOTICE & GFE EXAMPLES

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