



May 31, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Administrator Brooks-LaSure:

The National Uniform Claim Committee (NUCC) and National Uniform Billing Committee (NUBC) are writing to you regarding the implementation of the price transparency provisions of the No Surprises Act. Although we are supportive of the concept of delivering useable price information to patients prior to the delivery of care, we have concerns with how to accomplish the comprehensive provider good faith estimates and health plan advanced explanation of benefits provisions of the law.

As you are aware, the NUCC and NUBC are Data Content Committees named in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Both committees include a diverse group of health care stakeholders representing providers, health plans, designated standards maintenance organizations, public health organizations, and vendors. Our goal is to promote the development of the data needs reported within a uniform claim for use by the professional and institutional health care communities and transmitted to all third-party payers.

As part of the CMS implementation regulations of the No Surprises Act, providers are required to create a single good faith estimate for all estimated charges involved in a planned episode of care, inclusive of charges that would typically be billed separately by different billing providers. To accomplish this, a convening provider is expected to gather pricing information from other providers involved in the care in order to create a comprehensive estimate for the patient. This requirement is scheduled to be enforced as of January 1, 2023. Currently, there are no administrative transaction standards for the delivery of pricing data between providers, as such sharing would have been neither necessary nor advisable between market competitors prior to this law. In order to facilitate the timely creation and delivery of these good faith estimates, a new transaction and workflow process will need to be developed, tested, implemented, and operationalized. We do not believe that the scheduled enforcement date adequately provides the necessary time for the accomplishment of these steps, particularly when considering the number of other requirements that providers are expected to implement at the start of a calendar year. We recommend CMS delay enforcement of this requirement until after a transaction has been appropriately developed and implemented.

Secondly, we are concerned about the potential methods of implementing the Advanced Explanation of Benefits (AEOB) process for insured individuals. The law requires the delivery of AEOBs projecting the

out-of-pocket costs for insured patients scheduling care to take place in 3 or more days after scheduling. Recognizing the complexities involved in the implementation of this provision, CMS delayed enforcement until a future date after which a standard process for creating AEOBs has been delineated. As the administration considers how best to implement these provisions, we wish to highlight the following issues for consideration:

- Consistency between AEOB and claims adjudication: Although a specific transaction has yet to be named, there are multiple ways in which billing information can be transmitted from a provider to the health plan for the creation of an AEOB: an HL7 FHIR solution that is currently being developed specifically to meet this need and an X12 transaction utilizing the claim transaction structure for the processing of a predetermination transaction. Neither of these transactions are currently available for usage or testing of the AEOB process. The committees do not have a specific preference for either method, but stress the need for the AEOB to closely match the expected claim output in order to be most accurate for patients.
- Addressing incomplete or inadequate provider information: During the adjudication of claims, health insurers frequently must engage in back-and-forth communications with providers to ensure that the submitted claim contains all necessary information and is structured properly. However, in order to meet the strict timelines required under the law (patient delivery in 1 or 3 days), such communications would not be possible. Without health plans being able to adequately engage with providers on submitted information, AEOBs are more likely to be inaccurate and unhelpful for patients. We ask that CMS clarify how best to address situations in which a health insurer needs additional information from a provider.
- Delivery of AEOB: CMS regulations permit the delivery of AEOB information in either electronic or paper format, depending on the patient's preference. However, in order to meet the timeframe in a useable manner, paper delivery may be impractical. Additionally, the law only calls for a plan to share AEOB information with the patient, with no mention of also sharing the information with the provider. In order to ensure that patients and providers can discuss potential care, we ask that CMS consider an appropriate method of allowing necessary pricing information to be sent to the treating providers, in addition to delivery to the patient.

In order to ensure that the AEOB standard adequately meets the industry needs, we ask that CMS consider these points as they determine an appropriate solution.

The NUCC and NUBC appreciate your consideration of these issues as you operationalize the No Surprises Act. Addressing these issues will help ensure that price transparency provisions achieve their intended purpose of delivering timely and accurate pricing information for patients. If you have any questions, please contact either Nancy Spector, NUCC Chair, at (202) 789-7489 or [nancy.spector@ama-assn.org](mailto:nancy.spector@ama-assn.org) or Terrence Cunningham, NUBC Chair, at (312) 422-3346 or [tcunningham@aha.org](mailto:tcunningham@aha.org).

Sincerely,

/s/

Nancy Spector, NUCC Chair

/s/

Terrence Cunningham, NUBC Chair