



Questions and Answers on the No Surprises Act and State Laws



1. Do some states have their own laws to protect consumers from surprise medical bills?

Yes. Many states established their own protections against surprise medical billing before the No Surprises Act was enacted. As of February 5, 2021, 33 states had enacted legislation providing some protection for consumers from surprise bills.¹ The No Surprises Act created a new federal standard for surprise billing protections.

2. When are the No Surprises Act's surprise billing protections effective?

The No Surprises Act's rules generally apply to group health plans and group and individual health insurance coverage issuers with respect to plan or policy years beginning on or after January 1, 2022, as well as to health care providers and facilities, and providers of air ambulance services for items and services furnished during plan or policy years beginning on or after January 1, 2022. A plan or policy year generally is a 12-month period that is not necessarily the same as a calendar year. Some of the No Surprises Act protections have not been fully implemented and enforced. For more information see [No Surprises Act Protections: Status of Implementation](#).

3. Do the new rights under the No Surprises Act protect consumers in all states, the District of Columbia, and the U.S. Territories?

Yes. The new protections apply to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

4. Does the No Surprises Act override existing state law consumer protections if a state has a surprise billing law?

No. The No Surprises Act supplements state surprise billing laws; it does not replace them. For example, if a state has a surprise billing law, but that law does not apply to a specific item or service, the No Surprises Act would apply (if otherwise applicable). If a state's surprise billing law provides at least the same level of consumer protections against surprise bills and against higher cost sharing as does the No Surprises Act and its regulations, the state law generally will apply.²

5. If a consumer receives a surprise bill for services in a state with its own surprise billing law, will the federal or state law apply?

It depends on factors such as whether the state surprise billing law applies to the specific item or service, type of health coverage the consumer has, and the non-participating provider or facility involved. If the state law applies to all, then generally the state law will apply as long as the law offers consumer protections equal to or stronger than the No Surprises Act.

¹ The Commonwealth Fund, State Balance billing Protections. https://www.commonwealthfund.org/sites/default/files/2021-03/Hoadley_state_balance_billing_protections_table_02052021.pdf.

² The term "state" in the No Surprises Act includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

6. Is cost sharing different if a consumer is protected under a state law?

It depends on the state. A state may have a “specified state law” that applies with respect to the consumer cost-sharing amount for the types of emergency services and certain non-emergency services (but not air ambulance services) covered by the No Surprises Act.

A “specified state law” is a state law that provides a method for determining the total amount payable to an out-of-network provider or facility. In cases where a specified state law applies, the out-of-network rate for items and services and the amount upon which consumer cost sharing is based are calculated according to the method provided in the specified state law.

7. What if a state has an All-Payer Model Agreement?

In states where an All-Payer Model Agreement (see [Glossary](#)) applies, certain cost sharing and payment rates will be based on the terms of the All-Payer Model Agreement rather than another methodology specified in the No Surprises Act. If a state has an All-Payer Model Agreement that determines payment amounts for out-of-network providers and facilities for a service, the All-Payer Model Agreement generally will determine the cost-sharing amount and the out-of-network payment rate for covered items and services.

8. How is enforcement different if a consumer is protected from surprising billing under a state law instead of the No Surprise Act?

Enforcement of state laws is handled by the respective state agencies, such as a state’s department of insurance. States have primary enforcement authority over health insurance issuers, facilities, and providers (including air ambulance services providers) with respect to the No Surprises Act. The Centers for Medicare & Medicaid Services (CMS) directly enforces any provision that a state fails to substantially enforce. If the applicable state authority lacks the authority but wants to participate in the enforcement of a provision, the applicable state authority may enter into an agreement with CMS regarding enforcement.

If a participant or beneficiary is covered by a self-insured group health plan (such as a health plan provided by an employer to its employees), a state will not be able to enforce its surprise billing protections unless the plan has opted into the state’s surprise billing law.

Call the No Surprises Help Desk at 1-800-985-3059 for assistance in determining whether federal law or a state law applies in a particular circumstance. The No Surprises Help Desk can also provide assistance in identifying relevant state enforcement agencies and other useful information.

9. Are some states changing their state laws?

Yes. Some states have indicated they are updating their laws to align more closely with the No Surprises Act.

10. What happens if a No Surprises Act-related complaint is submitted through the No Surprises Help Desk and a state law applies?

If a state law applies, the No Surprises Help Desk may direct consumers to the relevant state enforcement agency(ies).