

Federal Surprise Billing Law is Now in Effect

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Aylix K. Jensen offers analysis and insights for the debt collection industry in her monthly newsletter, *The Safe Harbor: Debt Collection Law Update by Aylix Jensen*. This monthly newsletter provides an update of changes and developments in the law that impact the debt collection industry. It highlights new debt collection laws and practices, discusses what these may mean for the collection industry, and provides tips to ensure compliance. This article is featured in the March 2022 edition.

On December 27, 2020, the Consolidated Appropriations Act of 2021 was enacted, which included the No Surprises Act. The No Surprises Act, which went into effect on January 1, 2022, establishes federal patient protections against surprise medical bills and expands restrictions on charging health care plan holders out-of-network rates for certain services. The No Surprises Act applies to the following three types of health care providers and facilities:

1. Out-of-network emergency covered items and services
2. Covered medical items and services performed by an out-of-network provider at an in-network facility
3. Out-of-network air ambulance items and services

The No Surprises Act establishes an Independent Dispute Resolution process to resolve disputes between out-of-network providers and insurers and prohibits balance billing by out-of-network providers with certain exceptions. The law does not apply if the member chooses to receive items and services from an out-of-network provider.

With states starting to implement similar laws, it is important to note that the No Surprises Act may not preempt state surprise billing laws that establish a process for determining out-of-network reimbursement for covered items and services insurers subject to the state's law. For example, on September 1, 2019, Texas Senate Bill 1264 went into effect, which protects consumers with state-regulated health plans from surprise medical bills in emergencies and in cases where the consumer had no choice of providers. Like the No Surprises Act, the Texas legislation carves out a narrow exception when a member chooses an out-of-network doctor or provider at an in-network facility. Also, like the No Surprises Act, the Texas legislation includes an independent dispute resolution process to resolve disputes over out-of-network provider charges.

On January 13, 2022, the CFPB released a compliance bulletin to remind debt collectors of their obligation to comply with the FDCPA and FCRA, including when collecting, furnishing information about, and reporting medical debts covered by the No Surprises Act. This is yet another step taken by the CFPB as part of a larger trend to remove medical debt from consumers' credit reports.

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Practice Areas

Financial Services

