



September 7th, 2021

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

Re: Requirements Related to Surprise Billing Regulations: Standard Notice and Consent Documents and Model Disclosure Notice Regarding Patient Protections Against Surprise Billing Instructions for Providers and Facilities

Submitted electronically via www.regulations.gov

Dear Administrator Brooks-LaSure,

athenahealth, Inc. (“athenahealth” or “athena”) appreciates the opportunity to respond to the changes outlined in the Requirements Related to Surprise Billing; Part I interim final rule.

Over the past 23 years, athenahealth has built a network of approximately 385,000 providers in both the ambulatory and acute settings. We provide electronic health record, practice management, care coordination, patient engagement, data analytics, revenue cycle management, and related services to physician practices and hospitals. More than 140,000 clinicians utilize our single instance, continuously updated, cloud-based platform. We also support on-premise software solutions. In both hosting paradigms, athenahealth seeks out and establishes connections with partners across the care continuum, enabling our clinicians to improve the quality of care they deliver.

Below please find our specific comments and requests for clarification on the rule:

The No Surprise Act is a welcome advancement in the Center for Medicare and Medicaid’s (CMS) effort to protect patients and other healthcare consumers from “surprise bills” while enabling greater transparency into the cost of their care. Athenahealth shares the objective of ensuring patients have the information they need to make informed decisions about their care. We are committed to the implementation of this policy and providing both patients and providers with the resources needed to advance the goals of this regulation.

Given the complexities of developing the technical infrastructure to advance the rule, we thank HHS for issuing a federal enforcement delay around the good faith estimate and advanced explanation of benefits for insured individuals. This allows industry to build the technology and infrastructure necessary to support the transparency and information flow required by the rule. We appreciate Health and Human Services (HHS) advocacy for similar enforcement discretion at the state level. As timelines are considered and further guidance is released, we encourage HHS to account for the development work required to build and deploy the technology needed to successfully support these advancements.

In order to best operationalize and advance the spirit of this legislation, we urge CMS to release further guidance, FAQs and technical specifications to facilitate communication as between provider and payer for purposes of good faith estimate, claim submission and payer adjudication.



Specifically, we seek further guidance related to the following two key topics:

1. Good Faith Estimate and Advanced Explanation of Benefits

Athenahealth seeks clarification on the sequence of events and contents of the good faith estimate and advanced explanation of benefits. Specifically, further guidance is needed to understand how the good faith estimate should be transmitted to payers. Athenahealth strongly recommends leveraging existing transmission standards (*e.g. 837 for claim submission*) rather than creating new infrastructure to transmit this information. We encourage CMS to adopt a standardized approach to avoid the burden on providers of supporting multiple transmission methods across different payers.

2. Payer Adjudication

Athenahealth urges CMS to release further guidance on standardization of payer communication to providers. We ask CMS to require a standard format for consistent documentation in processes including but not limited to the adjudication of in-network versus out of network services, and communication regarding qualifying payment amounts.

We believe that addressing these two critical topics through further guidance and/or FAQ's will better enable providers and vendors to stand up the necessary technology infrastructure to ensure that the transmissions envisioned by the Act and the interim final rule are frictionless and do not overly burden doctors and other clinicians.

In summary, athenahealth appreciates the opportunity to provide comments and input on the interim final rule, we urge the agency to continue to provide additional guidance and we look forward to continued collaboration with CMS.

Regards,

A handwritten signature in black ink that reads "J. Michaels".

Jennifer Michaels
Government & Regulatory Affairs
athenahealth, Inc.