

## **Model Disclosure Notice Regarding Patient Protections Against Surprise Billing**

### **Instructions for Providers and Facilities**

**(For use beginning January 1, 2022)**

Section 2799B-3 of the Public Health Service Act (PHS Act) requires health care providers and facilities to make publicly available, post on a public website of the provider or facility (if applicable), and provide a one-page notice that includes the following information in clear and understandable language:

- (1) the federal restrictions on providers and facilities regarding balance billing in certain circumstances,
- (2) any applicable state law protections against balance billing, and
- (3) information on contacting appropriate state and federal agencies if an individual believes a provider or facility has violated the restrictions against balance billing.

Health care providers and facilities can, but aren't required to, use this model notice to meet these disclosure requirements. To use this document properly, the provider or facility should review, complete, and provide it in a manner consistent with applicable state and federal law. HHS considers use of this model notice, in accordance with these instructions, to be good faith compliance with the disclosure requirements of section 2799B-3 of the PHS Act and 45 CFR 149.430, if all other applicable PHS Act requirements are met.

If a state develops model or required language for its disclosure notice that is consistent with section 2799B-3 of the PHS Act, HHS will consider a provider or facility that makes good faith use of the state-developed language compliant with the federal requirement to include information about state law protections.

#### **Public disclosure requirements**

The disclosure notice must be publicly available, and posted on a provider's or facility's website (if applicable).

- **To meet the public disclosure requirement**, providers and facilities must prominently display a sign with the required disclosure information in a location of the provider or facility (such as where individuals schedule care, check-in for appointments, or pay bills), unless the provider doesn't have a publicly accessible location.
- **To meet the separate requirement to post the disclosure on a public website**, the disclosure or a link to the disclosure must be on a searchable homepage of the provider's or facility's public website.

*The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.*

### **Who should get this notice**

In general, providers and facilities must give the disclosure notice to individuals who are:

- Participants, beneficiaries, or enrollees of a group health plan or group or individual health insurance coverage offered by a health insurance issuer, including covered individuals in a health benefits plan under the Federal Employees Health Benefits Program, and
- To whom the provider or facility furnishes items or services, but only if such items or services are furnished at a health care facility, or in connection with a visit at a health care facility.

Providers and facilities shouldn't give these documents to an individual who has Medicare, Medicaid, or any form of coverage other than previously described, or to an individual who is uninsured.

### **Providing this notice**

Providers and facilities must provide the notice in-person, by mail, or by email, as selected by the individual. The disclosure notice must be limited to one, double-sided page and must use a 12-point font size or larger.

Providers and facilities must issue the disclosure notice no later than the date and time they request payment from the individual (including requests for copayment or coinsurance made at the time of a visit to the provider or facility). If the provider or facility doesn't request payment from the individual, they must provide the notice no later than the date they submit a claim for payment to the plan or issuer.

### **Language access**

#### **Compliance with Federal Civil Rights Laws**

Entities that get federal financial assistance must comply with federal civil rights laws that prohibit discrimination. These laws include section 1557 of the Affordable Care Act, Title VI of the Civil Rights Act of 1964, and section 504 of the Rehabilitation Act of 1973. Section 1557 and title VI require covered entities to take reasonable steps to ensure meaningful access to individuals with limited English proficiency, which may include offering language assistance services such as translation of written content into languages other than English.

Sections 1557 and 504 require covered entities to take appropriate steps to ensure effective communication with individuals with disabilities, including provision of appropriate auxiliary aids and services. Auxiliary aids and services may include interpreters, large print materials,

accessible information and communication technology, open and closed captioning, and other aids or services for persons who are blind or have low vision, or who are deaf or hard of hearing. Information provided through information and communication technology also must be accessible to individuals with disabilities, unless certain exceptions apply. Providers and facilities are reminded that the disclosure notice must comply with applicable state or federal language-access standards.

### **Use of plain language**

Health care providers and facilities are encouraged to use plain language in the disclosure notice and test the notice for clarity and usability when possible.

Plain language, accessibility, and language access resources:

- [Plainlanguage.gov/guidelines](https://www.plainlanguage.gov/guidelines)
- [Section508.gov](https://www.section508.gov)
- [LEP.gov](https://www.lep.gov)

**NOTE:** The information provided in these instructions is intended to be only a general summary of technical legal standards. It isn't intended to take the place of the statutes, regulations, or formal policy guidance on which it is based. Refer to the applicable statutes, regulations, and other interpretive materials for complete and current information.

**DON'T INCLUDE THESE INSTRUCTIONS WITH THE DISCLOSURE NOTICE GIVEN TO PATIENTS.**

### **Paperwork Reduction Act Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is 0938-1401. The time required to complete this information collection is estimated to average 3.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.