

Centers for Medicare & Medicaid Services  
Questions and Answers from Open Door Forum:  
Physicians- September 29, 2021

1. Can you tell me on the surprise billing act if that just pertains to providers in the hospital setting or does it also pertain to providers in the outpatient setting?
  - a. The answer to that actually comes from another rule that was issued earlier this year. We issued an interim final regulation to implement the requirements applicable to providers. And in that rule, we define the term “facility” to mean with respect to a group health plan in the context of non-emergency services as a hospital, a hospital outpatient department, a critical access hospital and an ambulatory surgical center. We also include a definition for independent freestanding emergency department, which is a healthcare facility but not limited to those described in the definition of healthcare facility with respect to non-emergency services. That is geographically separate and distinct and licensed separately from the hospital under applicable state law and provides emergency services. We also include a definition of a non-participating emergency facility and a non-participating provider. It may be helpful to take a look at that rulemaking and for clarity as far as what requirements are applicable to what types of providers and facilities.
    - i. Can you tell me if it includes just a regular physician’s office not affiliated with the hospital or just to regular PCP?
      1. Yes, for certain requirements.
        - a. So, it does include for PCPs for certain requirements?
          - i. Yes
2. This rule is set to be applicable or effective on January 1, 2022. Is that correct? And is there a possibility of it being delayed a little bit since comments aren’t going to be summarized until after mid-October?
  - a. Comments are due October 18th, and then we will, of course, carefully review those comments and based on them, issue a final rule. The statutory requirements are effective starting January 1, 2022. But the rule would not be effective until for - I believe it is 60 days after the final rule is issued. If we issue the final rule on December 21st -- I’m just throwing out a random date -- then the provisions in the rule would not be effective for 60 days after that. And it’s just the statutory requirements that are effective on the first of the year.

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