



“No Surprises Act” Overview and State Surprise Billing Actions

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- No Surprises Act: Overview
- Latest Federal Guidance for Implementation
- State Surprise Billing Action



Agenda for today's presentation

No Surprises Act: Overview

When: signed into law Dec. 2020, with most provisions going into effect Jan. 2022. It leaves certain implementation details to relevant federal agencies, which have been releasing guidance throughout 2021.

What is does:

Consumer protection: prohibits providers and facilities from billing patients an amount above what they would typically pay for their in-network cost-sharing.

Settle payment disputes: outlines processes for resolving payment disputes between an out-of-network provider or facility and the health plan. Providers and plans will have a 30-day negotiation period to settle disputes. If they cannot reach an agreement, the parties can use a binding arbitration process, also known as an independent dispute resolution (IDR).

In which settings: applies to health care delivered in emergency settings (including air ambulances but excluding ground ambulances) and in non-emergency settings when a patient receives care from an out-of-network provider.

Which plans: applies to all commercially insured patients, with a few exceptions including short-term limited duration insurance, account-based plans (e.g., HRAs), or retiree-only plans.

Federal Guidance for Implementation

Requirements Related to Surprise Billing; Part I – Interim Final Rule

- **Consumer protections** - restates key consumer protections from the act – prohibiting plans from balance billing.
- **Cost-sharing** - reiterates that an individual is limited to paying their in-network cost-sharing amount.
- **Qualified payment amounts** - builds on the No Surprises Act's definition of qualified payment amount and clarifies how it will be calculated.
- **Notice and consent** - explains the circumstances in which providers may ask patients to consent to pay higher out-of-network charges.

Notice of proposed rulemaking (NPRM) to Implement the NSA

- **Data Collection** - establishes new reporting requirements regarding air ambulance services.
- **Enforcement** – includes the process that HHS will take to investigate and enforce violations of federal insurance law (including the NSA).

Requirements Related to Surprise Billing; Part II – Interim Final Rule

- **Independent Dispute Resolution Process** - details the federal independent dispute resolution process.
- **Uninsured or Self-Pay** – outlines good faith estimate requirements for uninsured (or self-pay) individuals and patient-provider dispute resolution processes for uninsured (or self-pay) individuals.

States and the No Surprises Act

- Congress recognized many states had already enacted their own laws, so it deferred to states in certain ways, including:
 - Process of resolving billing disputes
 - Notice and consent to waive protections
- The No Surprises Act sets a minimum standard - states can require greater protections .



How States Resolve Payment Disputes



Payment Standard

States calculate what health insurers are required to reimburse out-of-network providers, which often account for a provider's geographic area and case complexity.



Independent Dispute Resolution/Arbitration

An independent third party, such as an arbitrator, reviews bid amounts submitted by a provider and insurer and determines the amount a health insurer is required to pay a health care provider.



Hybrid Approach

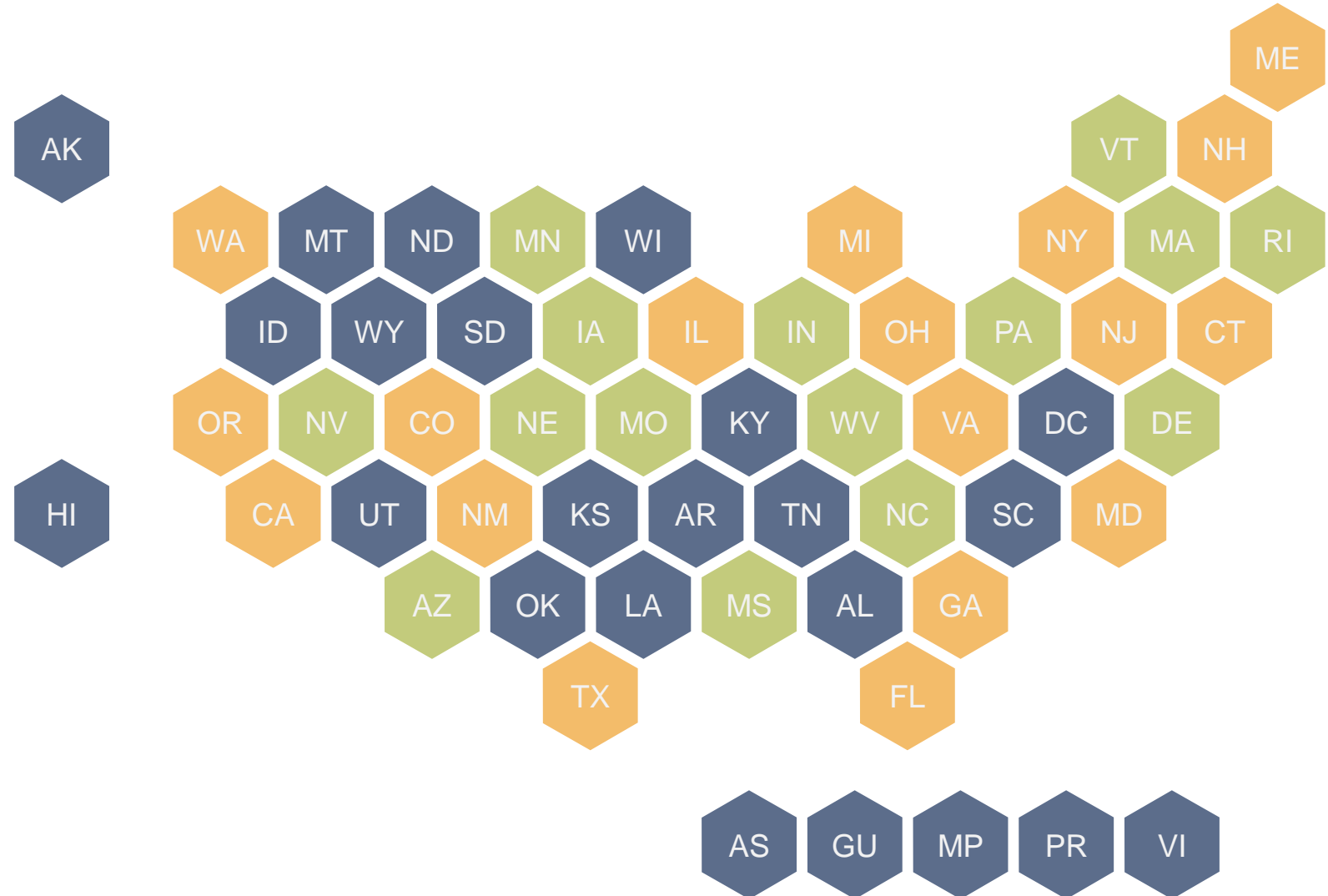
States use a payment standard to determine what insurers are required to pay an out-of-network provider. The provider or insurer has the opportunity to challenge a payment amount through IDR.

States with Surprise Billing Laws

With Consumer Protections (Comprehensive)

With Consumer Protections (Limited)

Without Consumer Protections



Source: M. Kona, et. al, Center on Health Insurance Reforms, Health Policy Institute, Georgetown University. Please contact Maanasa Kona for questions about this map.

Georgetown's Standards for "Comprehensive" Protections



Applies to both emergency setting and in-network hospital settings.



Applies to all types of health insurance plans.



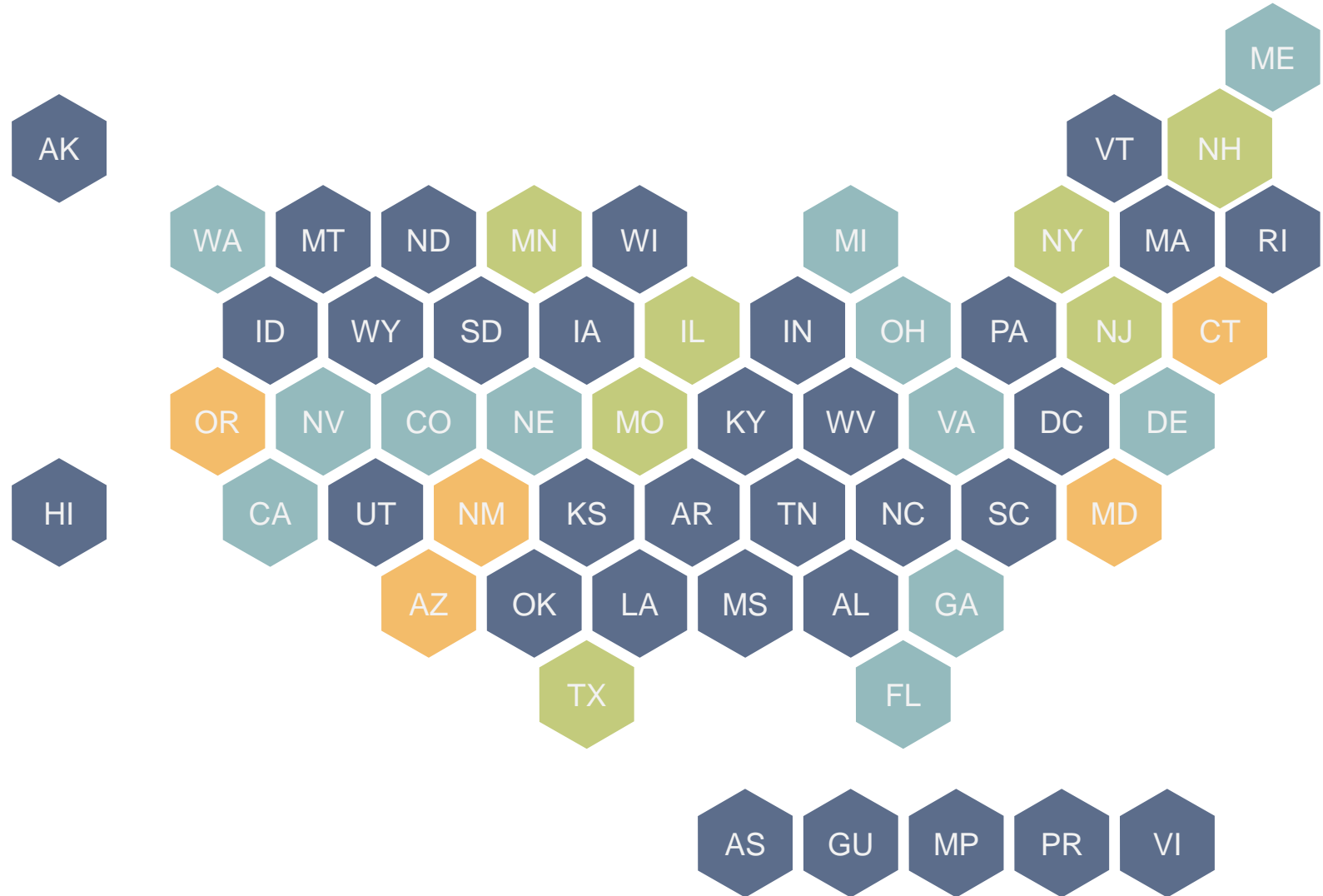
Holds patients harmless from costs above their cost-sharing obligations and prohibits providers from balance billing.



Establishes a process for resolving payment disputes between providers and insurers.

How States Resolve Payment Disputes

- Payment Standard
- Independent Dispute Resolution/Arbitration
- Hybrid Approach
- No Process or No State Surprise Billing Law



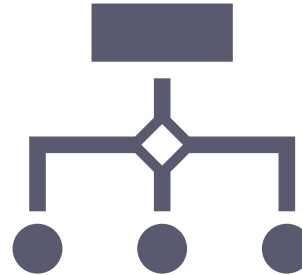
Source: Center on Health Insurance Reforms, Health Policy Institute, Georgetown University

State Legislative Actions and Considerations Post-NSA



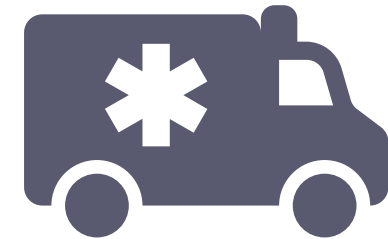
Differences in Federal/State Law

The Washington Office of the Insurance Commissioner is recommending state legislators amend their surprise billing law to align with certain federal requirements (e.g., patient cost-sharing).



Enforcement Authority

West Virginia HB 2005 (Enacted April 2021) authorizes the insurance commissioner to enforce the No Surprises Act.



Ambulance Services

Texas SB 790 (Enacted June 2021) requires the Texas Department of Insurance to study balance billing practices by ground ambulance providers.



Reach out anytime!

Additional NCSL Resources:

- [Health Policy Snapshot: Protecting Consumers from Surprise Medical Billing](#)
- [Surprise and Balance Billing State Policy Options](#)
- [Health Innovations State Law Database](#)

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