

# Surprise Billing Regulations- January 1, 2022

## Federal

- Applies to
  - Most commercial plans (fully/self-insured)
  - Hospitals, HOPDs, ASCs, and physicians at those facilities
  - Emergency services and certain ancillary services at in-network facilities
- Patients Held Harmless
- No benchmark rate
  - However, Independent Dispute Resolution process gives primacy to “Qualifying Payment Amount” (median in-network rate)
  - Other factors may be considered
- May still balance bill in certain instances with consent for non-emergency service only
- No referral requirements

## State

- Applies to
  - Fully insured plans only
  - Hospitals, physicians, clinicians, and skilled nursing facilities
  - Non-emergency services
- Patients Held Harmless
- No benchmark rate
  - However, State Commission recommended the legislature add one (median in-network rate)
  - Federal law explicitly defers to state law
- May still balance bill in most non-emergency instances with proper consent
- Provider Referral requirements