



# No Surprises Act Consumer Advocate Toolkit: Legal Citations

This resource provides the legal citations in the United States Code as well as the Code of Federal Regulations for consumer protections in key sections of the federal statutes known as the No Surprises Act. The United States Code contains the provisions of the No Surprises Act, which amended the Public Health Service Act (PHSA), the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code (IRC), and the Federal Employees Health Benefits (FEHB) Act. The No Surprises Act gives the Departments of Health and Human Services (HHS), Labor (DOL), the Treasury (collectively, “the Departments”) and the Office of Personnel Management (OPM) the authority to implement the statutes. The Code of Federal Regulations, also known as the CFR, contains regulations issued by the Departments and OPM to implement the No Surprises Act. The tables below list some of the key consumer protection provisions under the No Surprises Act and the associated legal authority as it pertains to health plans, issuers, FEHB carriers, providers, providers of air ambulance services, and health care facilities regulated by each of the implementing Departments and OPM.

Note: Some provisions of the regulations have been vacated by *Texas Medical Association et al. v. United States Department of Health and Human Services et al.*, Case No. 6:22-cv-372-JDK (TMA II); *Texas Medical Association et al. v. United States Department of Health and Human Services et al.*, Case No. 6:22-cv-450-JDK (TMA III); or *Texas Medical Association et al. v. United States Department of Health and Human Services et al.*, Case No. 6:23-cv-00059-JDK (TMA IV). These decisions vacated portions of the rules or guidance related to independent dispute resolution (IDR) considerations for reaching a payment determination, batching of IDR disputes, the administrative fee amount for IDR disputes, requirements related to the timeframe for sending an initial payment or notice of denial of payment, the methodology for calculating qualifying payment amounts (QPAs), and provisions pertaining to air ambulance disputes. Please review the opinions in the cases cited above for further information on which provisions of the regulations or guidance were vacated and the notes on our [website](#) about applicable guidance.

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## SURPRISE BILLING

No Surprises Act Sections and Titles	HHS	HHS	DOL	DOL	Treasury	Treasury	OPM
	PHSA <sup>1</sup> (U.S. Code [U.S.C.])	Code of Federal Regulations (CFR)	ERISA <sup>2</sup> (U.S.C.)	CFR	Internal Revenue Code (IRC) (U.S.C.)	CFR	FEHB Act <sup>3</sup> (U.S.C.); (CFR)
Sec. 102. Health insurance requirements regarding surprise medical billing	PHSA Sec. 2799A-1(a) and (b) ( <a href="#">42 U.S.C. § 300gg-111</a> )	<a href="#">45 CFR §§ 149.10 through 149.150</a>	ERISA Sec. 716 ( <a href="#">29 U.S.C. § 1185e</a> )	<a href="#">29 CFR §§ 2590.716-1 through 2590.716-7; 29 CFR § 2590.717-1</a>	IRC Sec. 9816 ( <a href="#">26 U.S.C. § 9816</a> )	<a href="#">26 CFR §§ 54.9816-1T through 54.9816-6T, 54.9817-1T, 54.9817-2, 54.9817-2T</a>	<a href="#">5 U.S.C. § 8902(p); 5 CFR § 890.114</a>
• Coverage of emergency services	PHSA Sec. 2799A-1(a) ( <a href="#">42 U.S.C. § 300gg-111(a)</a> )	<a href="#">45 CFR § 149.110</a>	ERISA Sec. 716(a) ( <a href="#">29 U.S.C. § 1185e(a)</a> )	<a href="#">29 CFR § 2590.716-4</a>	IRC Sec. 9816(a) ( <a href="#">26 U.S.C. § 9816(a)</a> )	<a href="#">26 CFR § 54.9816-4T</a>	<a href="#">5 U.S.C. § 8902(p); 5 CFR § 890.114</a>
• Coverage of non-emergency services	PHSA Sec. 2799A-1(b) ( <a href="#">42 U.S.C. § 300gg-111(b)</a> )	<a href="#">45 CFR § 149.120</a>	ERISA Sec. 716(b) ( <a href="#">29 U.S.C. § 1185e(b)</a> )	<a href="#">29 CFR § 2590.716-5</a>	IRC Sec. 9816(b) ( <a href="#">26 U.S.C. § 9816(b)</a> )	<a href="#">26 CFR § 54.9816-5T</a>	<a href="#">5 U.S.C. § 8902(p); 5 CFR § 890.114</a>

## DETERMINATION OF OUT-OF-NETWORK RATES; HEALTH CARE PROVIDER REQUIREMENTS

No Surprises Act Sections and Titles	HHS	HHS	DOL	DOL	Treasury	Treasury	OPM
	PHSA (U.S. Code [U.S.C.])	Code of Federal Regulations (CFR)	ERISA (U.S.C.)	CFR	Internal Revenue Code (IRC) (U.S.C.)	CFR	FEHB Act (U.S.C.); (CFR)
Sec. 103. Determination of out-of-network rates to be paid by health plans; IDR process	PHSA Sec. 2799A-1(c) ( <a href="#">42 U.S.C. § 300gg-111(c)</a> )	<a href="#">45 CFR § 149.510</a>	ERISA Sec. 716(c) ( <a href="#">29 U.S.C. § 1185e(c)</a> )	<a href="#">29 CFR § 2590.716-8</a>	IRC Sec. 9816(c) ( <a href="#">26 U.S.C. § 9816(c)</a> )	<a href="#">26 CFR § 54.9816-8T; 26 CFR § 54.9816-8</a>	<a href="#">5 U.S.C. § 8902(p); 5 CFR § 890.114</a>
Sec. 104. Health care provider requirements regarding surprise medical billing	PHSA Sec. 2799B-1 through Sec. 2799B-4 ( <a href="#">42 U.S.C. Chapter 6A, Subchapter XXV, Part E</a> )	<a href="#">45 CFR §§ 149.410–149.450 (Subpart E)</a>	*	*	*	*	*
• Emergency services	PHSA Sec. 2799B-1 ( <a href="#">42 U.S.C. § 300gg-131</a> )	<a href="#">45 CFR § 149.410</a>	*	*	*	*	*
• Non-emergency services	PHSA Sec. 2799B-2 ( <a href="#">42 U.S.C. § 300gg-132</a> )	<a href="#">45 CFR § 149.420</a>	*	*	*	*	*
• Provider disclosure	PHSA Sec. 2799B-3 ( <a href="#">42 U.S.C. § 300gg-133</a> )	<a href="#">45 CFR § 149.430</a>	*	*	*	*	*
• Enforcement	Sec. 2799B-4 ( <a href="#">42 U.S.C. § 300gg-134</a> )	Proposed <a href="#">45 CFR § 150; 45 CFR § 149.450</a>	ERISA Sec. 522 ( <a href="#">29 U.S.C. § 1152</a> )	*	*	*	*

### Table notes:

- 1) The hyperlinks in these tables may take readers to the main section of a statute or regulation. Readers may need to scroll through the hyperlinked pages to locate the statutory or regulatory section cited.
- 2) Electronic updates to the U.S. Code occur regularly. For the most recent U.S. Code, please see: [United States Code | GovInfo](#).
- 3) An asterisk generally indicates there are no corresponding No Surprises Act statutes or regulations at this time. For example, there may be no corresponding statutory provision, or regulations may not have been issued yet. Please note in some cases, there might be other relevant authorities.

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## ENDING SURPRISE AIR AMBULANCE BILLS; REPORTING REQUIREMENTS

No Surprises Act Sections and Titles	HHS	HHS	DOL	DOL	Treasury	Treasury	OPM
	PHSA (U.S. Code [U.S.C.])	Code of Federal Regulations (CFR)	ERISA (U.S.C.)	CFR	Internal Revenue Code (IRC) (U.S.C.)	CFR	FEHB Act (U.S.C.); (CFR)
Sec. 105. Ending surprise air ambulance bills	PHSA Sec. 2799A-2 ( <a href="#">42 U.S.C. § 300gg-112(a)</a> )	<a href="#">45 CFR § 149.130</a>	ERISA Sec. 717 ( <a href="#">29 U.S.C. § 1185f</a> )	<a href="#">29 CFR § 2590.717-1</a>	IRC Sec. 9817 ( <a href="#">26 U.S.C. § 9817(a)</a> )	<a href="#">26 CFR § 54.9817-1T</a>	<a href="#">5 U.S.C. § 8902(p)</a> ; <a href="#">5 CFR § 890.114</a>
• Out-of-network air ambulance services, IDR process	PHSA Sec. 2799A-2(b) ( <a href="#">42 U.S.C. § 300gg-112(b)</a> )	<a href="#">45 CFR § 149.440</a> ; <a href="#">45 CFR § 149.520</a>	ERISA Sec. 717 ( <a href="#">29 U.S.C. § 1185f(b)</a> )	<a href="#">29 CFR § 2590.717-2</a>	IRC Sec. 9817 ( <a href="#">26 U.S.C. § 9817(b)</a> )	<a href="#">26 CFR § 54.9817-2T</a> ; <a href="#">26 CFR § 54.9817-2</a>	<a href="#">5 U.S.C. § 8902(p)</a> ; <a href="#">5 CFR § 890.114</a>
Sec. 106. Reporting requirements regarding air ambulance services	PHSA Sec. 2799A-8 <sup>4</sup> ( <a href="#">42 U.S.C. § 300gg-118</a> )	Proposed <a href="#">45 CFR 149.230</a> and <a href="#">149.460</a>	ERISA Sec. 723 ( <a href="#">29 U.S.C. § 1185l</a> )	Proposed <a href="#">29 CFR 2590.723</a>	IRC Sec. 9823 ( <a href="#">26 U.S.C. § 9823</a> )	Proposed <a href="#">26 CFR 54.9823-1</a>	*

## TRANSPARENCY; KEY CONSUMER PROTECTIONS

No Surprises Act Sections and Titles	HHS	HHS	DOL	DOL	Treasury	Treasury	OPM
	PHSA (U.S. Code [U.S.C.])	Code of Federal Regulations (CFR)	ERISA (U.S.C.)	CFR	Internal Revenue Code (IRC) (U.S.C.)	CFR	FEHB Act (U.S.C.); (CFR)
Sec. 107. Transparency regarding in-network and out-of-network deductibles and out-of-pocket limitations	PHSA Sec. 2799A-1(e) ( <a href="#">42 U.S.C. § 300gg-111(e)</a> )	*	ERISA Sec. 716(e) ( <a href="#">29 U.S.C. § 1185e(e)</a> )	*	IRC Sec. 9816 ( <a href="#">26 U.S.C. § 9816(e)</a> )	*	<a href="#">5 U.S.C. § 8902(p)</a> ; <a href="#">5 CFR § 890.114</a>
Sec. 110. Consumer protections through application of health plan external review in cases of certain surprise medical bills	The law expands the scope of the external review requirements [PHSA Sec. 2719(b) ( <a href="#">42 U.S.C. § 300gg-19(b)</a> )] to include consideration of whether a plan or issuer is in compliance with the PHSA 2799A-1 and 2799A-2 ( <a href="#">42 U.S.C. § 300gg-111</a> and ( <a href="#">42 U.S.C. § 300gg-112</a> ))	<a href="#">45 CFR § 147.136(a)(1)(ii)</a> ; <a href="#">45 CFR § 147.136(c)(2)(i)</a> ; <a href="#">45 CFR § 147.136(d)(1)(i)(B)</a>	The law expands the scope of the external review requirements to include consideration of whether a plan or issuer is in compliance with ERISA Secs. 716 and 717 ( <a href="#">29 U.S.C. § 1185e</a> , <a href="#">29 U.S.C. § 1185f</a> )	<a href="#">29 CFR § 2590.715-2719(a)(1)(ii)</a> ; <a href="#">29 CFR § 2590.715-2719(c)(2)(i)</a> ; <a href="#">29 CFR § 2590.715-2719(d)(1)(i)(B)</a>	The law expands the scope of the external review requirements to include consideration of whether a plan or issuer is in compliance with IRC Sec. 9816, 9817 ( <a href="#">26 U.S.C. § 9816</a> , <a href="#">26 U.S.C. § 9817</a> )	<a href="#">26 CFR § 54.9815-2719T(a)(1)(ii)</a> ; <a href="#">26 CFR § 54.9815-2719T(c)(2)(i)</a> ; <a href="#">26 CFR § 54.9815-2719T(d)(1)(i)(B)</a>	OPM's Federal Employees Health Benefits (FEHB) Program has an existing disputed claims process at <a href="#">5 CFR 890.105</a>
Sec. 111. Consumer protections through health plan requirement for fair and honest advance cost estimate	PHSA Sec. 2799A-1(f) ( <a href="#">42 U.S.C. § 300gg-111(f)</a> )	*	ERISA Sec. 716(f) ( <a href="#">29 U.S.C. § 1185e(f)</a> )	*	IRC Sec. 9816(f) ( <a href="#">26 U.S.C. § 9816(f)</a> )	*	<a href="#">5 U.S.C. § 8902(p)</a>
Sec. 112. Patient protections through transparency and patient-provider dispute resolution	PHSA Sec. 2799B-6 ( <a href="#">42 U.S.C. § 300gg-136</a> )	<a href="#">45 CFR § 149.610</a> and <a href="#">45 CFR § 149.620</a>	*	*	*	*	*
• Good faith estimate	PHSA Sec. 2799B-6 ( <a href="#">42 U.S.C. § 300gg-136</a> )	<a href="#">45 CFR § 149.610</a>	*	*	*	*	*

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## TRANSPARENCY; KEY CONSUMER PROTECTIONS (CONTINUED)

No Surprises Act Sections and Titles	HHS	HHS	DOL	DOL	Treasury	Treasury	OPM
	PHSA (U.S. Code [U.S.C.])	Code of Federal Regulations (CFR)	ERISA (U.S.C.)	CFR	Internal Revenue Code (IRC) (U.S.C.)	CFR	FEHB Act (U.S.C.); (CFR)
• Patient-provider dispute resolution	PHSA Sec. 2799B-7 ( <a href="#">42 U.S.C. § 300gg-137</a> )	<a href="#">45 CFR § 149.620</a>	*	*	*	*	*
Sec. 113. Ensuring continuity of care	PHSA Sec. 2799A-3 ( <a href="#">42 U.S.C. § 300gg-113</a> ); PHSA Sec. 2799B-8 ( <a href="#">42 U.S.C. § 300gg-138</a> )	*	ERISA Sec. 718 ( <a href="#">29 U.S.C. § 1185g</a> )	*	IRC Sec. 9818 ( <a href="#">26 U.S.C. § 9818</a> )	*	See <a href="#">FEHB Carrier Letter 2022-12</a>
Sec. 114. Maintenance of price comparison tool	PHSA Sec. 2799A-4 ( <a href="#">42 U.S.C. § 300gg-114</a> )	*	ERISA Sec. 719 ( <a href="#">29 U.S.C. § 1185h</a> )	*	IRC Sec. 9819 ( <a href="#">26 U.S.C. § 9819</a> )	*	*
Sec. 116. Protecting patients and improving the accuracy of provider directory information	PHSA Sec. 2799A-5 ( <a href="#">42 U.S.C. § 300gg-115</a> , <a href="#">42 U.S.C. § 300gg-139</a> )	*	ERISA Sec. 720 ( <a href="#">29 U.S.C. § 1185i</a> )	*	IRC Sec. 9820 ( <a href="#">26 U.S.C. § 9820</a> )	*	See <a href="#">FEHB Carrier Letter 2022-12</a>
• Public disclosure of individual protections against balance billing	PHSA Sec. 2799A-5(c) ( <a href="#">42 U.S.C. § 300gg-115 (c)</a> )	*	ERISA Sec. 720(c) ( <a href="#">29 U.S.C. § 1185i(c)</a> )	*	IRS Sec. 9820(c) ( <a href="#">26 U.S.C. § 9820(c)</a> )	*	*

### Endnotes

<sup>1</sup> PHSA is the Public Health Service Act.

<sup>2</sup> ERISA is the Employee Retirement Income Security Act of 1974.

<sup>3</sup> The FEHB Act is the Federal Employees Health Benefits (FEHB) Act.

<sup>4</sup> Section 106(a) of the No Surprises Act is codified in the United States Code as a note to PHS Act section 2799A-8. (86 FR 51733). As such, the enforcement provisions under PHS Act section 2723 and 45 CFR part 150 extend to PHS Act section 2799A-8, air ambulance data reporting requirements, on issuers and non-Federal governmental group health plans.