

§ 149.430 Provider and facility disclosure requirements regarding patient protections against balance billing.

(a) *In general.* Each health care provider and health care facility (including an emergency department of a hospital and an independent freestanding emergency department) must make publicly available, post on a public website of such provider or facility (if applicable), and provide to any individual who is a participant, beneficiary, or enrollee of a group health plan or group or individual health insurance coverage offered by a health insurance issuer and to whom the provider or facility furnishes items or services, the information described in paragraph (b) of this section regarding patient protections against balance billing, except as provided in paragraphs (e) and (f) of this section. A provider or facility must make the disclosures in accordance with the method and timing requirements set forth in paragraphs (c) and (d) of this section.

(b) *Content.* The disclosures required under this section must include, in clear and understandable language, all the information described in this paragraph (b) (and may include any additional information that does not conflict with that information).

(1) A statement that explains the requirements of and prohibitions applicable to the health care provider or health care facility under sections 2799B-1 and 2799B-2 of the PHS Act and their implementing regulations in §§ 149.410 and 149.420;

(2) If applicable, a statement that explains any State law requirements regarding the amounts such provider or facility may, with respect to an item or service, charge a participant, beneficiary, or enrollee of a group health plan or group or individual health insurance coverage offered by a health insurance issuer with respect to which such provider or facility does not have a contractual relationship, after receiving payment, if any, from the plan or coverage, respectively, for such item or service and any applicable cost-sharing payment from such participant, beneficiary, or enrollee; and

(3) A statement providing contact information for the appropriate State and Federal agencies that an individual may contact if the individual believes the provider or facility has violated a requirement described in the notice.

(c) *Required methods for disclosing information.* Health care providers and health care facilities must provide the disclosure required under this section as follows:

(1) With respect to the required disclosure to be posted on a public website, the information described in paragraph (b) of this section, or a link to such information, must appear on a searchable homepage of the provider's or facility's website. A provider or facility that does not have its own website is not required to make a disclosure under this paragraph (c)(1).

(2) With respect to the required disclosure to the public, a provider or facility must make public the information described in paragraph (b) of this section on a sign posted prominently at the location of the provider or facility. A provider that does not have a publicly accessible location is not required to make a disclosure under this paragraph (c)(2).

(3) With respect to the required disclosure 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, a provider or facility must provide the information described in paragraph (b) of this section in a one-page (double-sided) notice, using print no smaller than 12-point font. The notice must be provided in-person or through mail or email, as selected by the participant, beneficiary, or enrollee.

(d) *Timing of disclosure to individuals.* A health care provider or health care facility is required to provide the 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 no later than the date and time on which the provider or facility requests payment from the individual, or with respect to an individual from whom the provider or facility does not request payment, no later than the date on which the provider or facility submits a claim to the group health plan or health insurance issuer.

(e) *Exceptions.* A health care provider is not required to make the disclosures required under this section—

(1) If the provider does not furnish items or services at a health care facility, or in connection with visits at health care facilities; or

(2) To individuals to whom the provider furnishes items or services, if such items or services are not furnished at a health care facility, or in connection with a visit at a health care facility.

(f) *Special rule to prevent unnecessary duplication with respect to health care providers.* To the extent a provider furnishes an item or service covered under the plan or coverage at a health care facility (including an emergency department of a hospital or independent freestanding emergency department), the provider satisfies the requirements of paragraphs (c)(2) and (3) of this section if the facility makes the information available, in the required form and manner, pursuant to a written agreement. Accordingly, if a provider and facility enter into a written agreement under which the facility agrees to make the information required under this section available on a sign posted prominently at the facility and to provide the one-page notice to individuals in compliance with this section, and the facility fails to do so, then the facility, but not the provider, violates the disclosure requirements of this section.

(g) *Applicability date.* The provisions of this section are applicable beginning on January 1, 2022.