

Emerging issues in Managed Care

Janet Walker

*Practice Area Lead Attorney – Value
Based Care and Payor Relations*
Ascension, St. Louis

Michael McMillan

*Senior Vice President, Contracting
and Payor Relations*
Ascension, St. Louis

Jeff Wurzburg

Norton Rose Fulbright US LLP
Senior Counsel, San Antonio &
Washington, DC



1

Disclaimer

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright or Ascension entity on the points of law discussed.

We are not dispensing legal advice, and listening does *not* establish an attorney-client relationship.



2

2

Road map

- Price transparency
- No Surprises act
- Stark and AKS Reforms
- COVID-19
- Equity and Social Justice
- Legislative and Regulatory Update
- Other hot topics in Managed Care



3

3

Price transparency

Hospitals: 84 Fed. Reg. 65524 (Nov. 27, 2019); Adopts new 42 CFR Part 180

- **Hospitals are required to make public:**

- A machine readable file containing a list of all standard charges for all items and services
- A consumer-friendly list of standard charges for a limited set of shoppable services
- Hospitals must publish a consumer-friendly, searchable list of standard charges and payor-specific negotiated rates for at least 300 "shoppable services"
- CMS may assess CMPs following a warning notice to a noncompliant hospital or following a request for a corrective action plan



4

4

Price transparency

Health plans: 85 Fed. Reg. 72158 (Nov. 12, 2020); Regulations at 45 CFR Parts 147/158

- Health plans must provide:
 - No later than January 1, 2022, must make public, using three standardized, machine-readable files (updated monthly)
 - Negotiated rates for in-network providers
 - Historical allowed amounts for out-of-network providers
 - Prices for prescription drugs
 - Personalized price estimates for 500 shoppable services beginning in 2024
 - Disclose cost-sharing information for all items services for plan years beginning in 2024
- Provides incentives for sharing savings with consumers by incorporation into medical loss ratios.

No Surprises Act

- Limits patient liability to in-network cost-sharing, deductibles, and out-of-pocket maximums
- Will protect balance billing/require payers to pay providers directly
- Applies to:
 - Non-emergency services provided by a nonparticipating professional at a participating facility
 - Emergency services
- Act requires Secretary of HHS to issue regulations by July 1, 2021
- Requires Independent Dispute Resolution process to begin January 1, 2022
 - Permits batching of cases in certain circumstances within a 30-day period
 - IDR entity may not consider reimbursement rates of public payer/provider's usual customary charges
- Act provides deference to states with existing surprise billing laws

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Emerging Issues in Managed Care

Also available as part of the eCourse

[2021 Health Law eConference](#)

First appeared as part of the conference materials for the

32nd Annual Health Law Conference session

"Emerging Issues in Managed Care"