

Solihten Update - Lite

A Solihten Institute Publication New in 2022

New for 2022, the ***Solihten Update - Lite*** will be distributed in addition to the full monthly version, ***Solihten Update: "Ongoing Resources – Continuing to Move Forward"*** that is usually sent on the first Thursday of each month and covers a range of resources and a lot of information. **The Lite edition will be focus on a single topic** and will be published on a rolling basis driven by the content needs for work of the Solihten Network. It will be sent to the Inboxes of Executive Directors/CEOs; Center Board Chairs/Presidents; Clinical and Training Directors; Administrative Personnel; and Development Personnel within each Center. Please feel free to distribute this information to other staff members as you see fit.

Were you surprised by the No Surprises Act? Well, you weren't alone.

This legislation flew under the radar with three interim final rules being implemented throughout 2021. The "true final," *No Surprises Act* went into effect January 1, 2022. It is complex and onerous, and really does not fit at all within the behavioral healthcare space, but ***it DOES apply to Solihten Affiliated Centers, and we should do our best to comply.***

Much of the information that follows was provided in ***The Solihten Update: [Continuing to Move Forward into 2022](#)***, published on January 6, 2022, but additional resources and updated information procured by the Institute staff, as well as a legal opinions from Network colleagues are provided. ***As with any legal issue, we strongly encourage each Center speak to your own counsel for additional information or opinion specific to your state.***

Primary Actions:

At this time, it is hard to know whether it is completely thorough/accurate, but by engaging in the following for the time-being, it will demonstrate that your Center is making a good faith effort to comply with the regulations, which seem to be the best anyone can do given the complexities involved and the lack of clear guidance.

- Post the "[Notice Template](#)" prominently on the Center's website, and in any office(s) where in-person service is taking place. ***This template is specific to Colorado but check with your state's insurance division for a template or applicable contract information.***
 - CMS.gov: [January 3 Fact Sheet: No Surprises: Understand your rights against surprise medical bills \(for consumers\) \(PDF\)](#)
- **Verbally notify** uninsured individuals and individuals who do not intend to submit a claim **with their insurance plan** of the availability of a Good Faith Estimate (GFE). *
 - Upon request (from current clients) and upon scheduling of services (for new or potential clients), **provide the GFE to uninsured and self-pay individuals.** This can be sent via email or regular mail based on the client's preference.

- Seek out a **GFE Template from your Center’s Electronic Health Record system**. Here are templates from two systems in use within the Solihden Network.
 - Vālant: [Good Faith Estimate of Service Cost Template](#)
 - Therapy Appointment: [Good Faith Estimate of Service Cost - Template](#)
 - [Therapy Appointment Explanatory Resource](#)

*Note: There are a range of templates available to explore format options, **but HHS and CMS defines the elements that must be present** with the [official template and instructions from HHS](#) for your information (CMS-10791 – I. Right to Receive a Good Faith Notice of Expected Charges Notice).*

- *A modified template for the GFE ([GFE Template – 12.31.21](#)). **The belief is that this template will, at a minimum, demonstrate your good-faith effort to comply with the regulation.***
- Always check **within your own state context** to determine if there **is anything over and above the Federal** requirements.
- **Behavioral Health/Clinical Specific Information**
 - For a client’s initial visit (**90791**), a Good Faith Estimate can be provided for that session as a stand-alone. **A new, documented GFE** would then be created that is tied to **the client’s individual treatment plan** determined by the diagnosis (diagnostic code) along with the anticipated frequency of treatment needs. **Any renegotiation**, including changes to the treatment plan, **will require a new, documented** Good Faith Estimate.
 - For ongoing therapy services, here is some potential sample language to include under “Additional Provider Notes Including Total Estimated Cost”:

“If we continue to meet once per week, the monthly cost would be \$X based on a rate of \$X per session. The length of treatment depends on a variety of factors (presenting concerns, diagnoses, desired frequency of sessions (weekly versus every two weeks), type of treatment being sought (short-term versus long-term), etc. Depending on the amount of progress we are able to make together, I typically meet with clients who are seeking short-term therapy for 3-6 months, and those seeking longer-term treatment, for 1-2 years or longer depending on their needs.”

OR

“I expect that my care of you will require continued weekly therapy sessions continuing through the end of the year, at \$X per session for a total of 50 weeks, accounting for vacations and holidays for an estimated total of [\$X * 50].”

There is some helpful news regarding the No Surprises Act. HHS has announced that there will be a one-year period of “enforcement discretion” regarding the Good Faith Estimate (GFE):

“HHS [Health and Human Services Department] understands that it may take time for providers and facilities to develop systems and processes for providing and receiving the required information from others.

Therefore, for good faith estimates provided to **uninsured (or self-pay)** individuals from January 1, 2022, through December 31, 2022, HHS will exercise its enforcement discretion in situations where a good faith estimate provided to an uninsured (or self-pay) individual does not include expected charges from other providers and facilities that are involved in the individual's care."

One legal opinion: "This is very limited in that it appears to only apply to whether the GFE includes expected charges from other providers and facilities; but it indicates, to me, that HHS understands that this is impossibly complex and that they may not be taking a hard stance on enforcement in 2022."

***Good Faith Estimate:** Health care providers are required to provide a Good Faith Estimate (GFE) of expected charges to uninsured and self-pay individuals upon request or at the time of scheduling services. The GFE must be provided within three (3) business days upon request by the individual; within one (1) day of the scheduled service if the service is to be provided within three (3) business days; or within three (3) business days of the scheduled service if the service is to be provided within 10 business days.

Additional Resources

✓ [CMS.gov](https://www.cms.gov)

Starting January 1, 2022, consumers will have new billing protections when getting emergency care, non-emergency care from out-of-network providers at in-network facilities, and air ambulance services from out-of-network providers. Through new rules aimed to protect consumers, excessive out-of-pocket costs will be restricted, and emergency services must continue to be covered without any prior authorization, and regardless of whether a provider or facility is in-network.

✓ [NASW Response to the No Surprise Act](#)

This appears to be a regurgitation of the law, but it may be more digestible than what has been written for Federal Government sites. It also includes an extensive FAQ section that may be helpful.

✓ [APA: Understanding the No Surprises Act: How to provide estimates for your services](#)

Psychologists and other health care providers are now required by law to give uninsured and self-pay patients a good faith estimate of costs for services that they offer. Read APA's updated guidance and resources on when and how to provide these estimates.

✓ [Thoughts](#) from **Laurel Arnold Clement, Attorney and LPC**



The Institute staff is here to help if you have Center-specific questions.