Greetings and Good News!

Please see below regarding Good Faith Estimate rules.  This information is from Colleen Meiman, our shared PCA Federal Policy Director:

There is good news regarding the requirements for CHCs to provide Good Faith Estimates (GFEs) to uninsured and self-pay\* patients.  **From a practical perspective, the requirement that CHCs include costs for services provided by non-CHC providers in the GFEs they give to uninsured and self-pay patients is**[**on hold indefinitely**](https://us-east-2.protection.sophos.com/?d=google.com&u=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS91cmw_c2E9dCZyY3Q9aiZxPSZlc3JjPXMmc291cmNlPXdlYiZjZD0mdmVkPTJhaFVLRXdqWHNfYm94T1g3QWhXb0RrUUlIYU1sQkpnUUZub0VDQ0VRQVEmdXJsPWh0dHBzJTNBJTJGJTJGd3d3LmNtcy5nb3YlMkZmaWxlcyUyRmRvY3VtZW50JTJGZ29vZC1mYWl0aC1lc3RpbWF0ZS11bmluc3VyZWQtc2VsZi1wYXktcGFydC0zLnBkZiZ1c2c9QU92VmF3MlR0Y2Yzd2VvYXhrNEVMaDVnRExsbQ==&i=NjEzMjk5NWE3NjE5YzcwZThhMDcyMGYz&t=RjlyRGc1NHVNYkF4dklnU3hva3JkVkJaeHRiWWJYZHVPNURvYW42SFllST0=&h=67470e22b37b4577a022248e4f971eed&s=AVNPUEhUT0NFTkNSWVBUSVa5fqgXKd0t1dWYxK4x-U5OEfyGmGAUBYT2YqXPwIAMqg)**.**

From a legal perspective, the full story is a little more complicated, so here’s the background:

* The law which contains the GFE requirements – called the No Surprises Act – was enacted in late 2020,  It officially requires that that all providers – including but not limited to CHCs – begin giving all patients GFEs starting this past January (2022).
* When they began implementing the law, CMS immediately acknowledged that the GFE deadlines were largely unrealistic, so they said they’d exercise “enforcement discretion.”  That means that while the requirements are officially on-the-books, CMS would delay enforcing them until some point after the Jan. 1, 2022 legal effective date.
* To indicate how long they would delay enforcing the legal deadlines, CMS broke the GFE rules into three phases.  The chart below (& attached) lays out the details, but in short:
  + Phase One – GFEs must be provided:
    - Only to uninsured and “self-pay” patients, and
    - Only include costs for services/items that are provided and billed *directly by the CHC*.

o   Phase Two – GFEs for uninsured and self-pay patients must also include *costs for services/ items that the patient receives from outside (non-CHC) providers* during an “episode of care” that is coordinated by the CHC.

o   Phase Three:  GFEs must be provided to patients who plan to bill their insurance.

* As summarized in the chart below, Phase One has been in effect since this past January.  (Note that I’ve yet to hear any examples of CMS or a state proactively enforcing these rules, at a CHC or any other provider.)
* CMS had previously indicated that it would begin enforcing Phase Two (including costs for non-CHC providers in the GFEs for uninsured & self-pay patients) starting next month.  However, in a document released on December 2, [**CMS stated that it would delay enforcing the Phase Two requirements until it finalizes a regulation implementing those requirements**](https://us-east-2.protection.sophos.com/?d=google.com&u=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS91cmw_c2E9dCZyY3Q9aiZxPSZlc3JjPXMmc291cmNlPXdlYiZjZD0mdmVkPTJhaFVLRXdqWHNfYm94T1g3QWhXb0RrUUlIYU1sQkpnUUZub0VDQ0VRQVEmdXJsPWh0dHBzJTNBJTJGJTJGd3d3LmNtcy5nb3YlMkZmaWxlcyUyRmRvY3VtZW50JTJGZ29vZC1mYWl0aC1lc3RpbWF0ZS11bmluc3VyZWQtc2VsZi1wYXktcGFydC0zLnBkZiZ1c2c9QU92VmF3MlR0Y2Yzd2VvYXhrNEVMaDVnRExsbQ==&i=NjEzMjk5NWE3NjE5YzcwZThhMDcyMGYz&t=RjlyRGc1NHVNYkF4dklnU3hva3JkVkJaeHRiWWJYZHVPNURvYW42SFllST0=&h=67470e22b37b4577a022248e4f971eed&s=AVNPUEhUT0NFTkNSWVBUSVa5fqgXKd0t1dWYxK4x-U5OEfyGmGAUBYT2YqXPwIAMqg).  Also, CMS:
  + will not even propose a regulation until the agency “has established a standard technology or transaction to automate the creation of comprehensive GFEs”
  + is committing to giving providers “significant advanced notice” before it will begin enforcing these requirements.

**As these processes will likely take years, CHCs can safely assume that they will not be required to adhere to Phase Two requirements for the foreseeable future.**

* Phase Three requirements – providing GFEs to insured patients – are also on hold indefinitely, pending the development of IT systems to automate the process.

The attached chart summarizes these phases, and updates the enforcement information to reflect last Friday’s announcement.  I will also be updating the [shorturl.at/dzKLW]CHC Toolkit on Good Faith Estimates.

Please let me know if you have any questions.

Colleen

*\*Remember that the GFE rules define a “self-pay” patient differently from Section 330 rules.  Under the GFE rules, a "self-pay" patient is someone who has insurance but chooses not to submit a claim for the service.  Persons who pay the full cost themselves, but also submit a claim for the service to count against their deductible, are not considered "self-pay" for GFE purposes.*

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| **CMS Enforcement of Good Faith Estimates Requirements** | | | |  |  |  |
| *Updated 12/5/22* | |  |  |  |  |  |
|  | **GFEs for:** | **Requirements on Providers** | **Official Effective Date** | **CMS will start enforcing** |  |  |
|  |  |
| **Phase ONE** | Uninsured & “self-pay” patients\* | GFEs must include charge info for services/ items provided by the CHC | Jan. 1, 202**2** | Jan. 1, 202**2** |  |  |
| **Phase TWO** | GFEs must also include charge info from outside providers for services/ items that are included in an "episode of care" for which the CHC Is the lead provider.  (For example, if a CHC knows at the time the GFE is prepared that the patient will be referred out for  lab work or prescription -- for the same reason that the patient initially came to the CHC -- those outside costs are to be included in the GFE.) | Jan. 1, 202**2** - but *CHCs should not be concerned about this date.* | ~~Jan 1, 202~~**~~3.~~** On 12/2/22, CMS announced that it will **delay enforcement of this requirement indefinitely\*\***. This Phase will not be enforced until 1.  Standardized IT systems are developed and implemented to automate sharing this information.  2.  CMS issues a Final Rule requiring the use of these systems, and 3.  CHCs have "sufficient time" to come into compliance with the Final Rule. |  |  |
| **Phase THREE** | Insured patients who plan to bill their insurance | Providers must send GFE info to insurance companies of insured patients | In 2021, CMS **postponed** these requirements **indefinitely,** citing technological issues. | |  |  |
| *\* In the GFE world, a "self-pay" patient is someone who has insurance but chooses not to submit a claim for the service.  Persons who pay the full cost themselves, but also submit a claim for the service to count against their deductible, are not considered "self-pay" for GFE purposes.* | | | | |  |  |
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| For more info on the delay of Phase 2 requirements, see shorturl.at/kvAFX | | | |  |  |  |
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| A Toolkit on GFEs for CHCs is available at **shorturl.at/dzKLW** | | |  |  |  |  |