

United States Senate

WASHINGTON, DC 20510

July 22, 2022

Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health & Human
Services
200 Independence Avenue SW
Washington, D.C. 20201

Marty Walsh
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Secretary Becerra, Secretary Walsh, and Secretary Yellen,

No patient who has done everything that they are supposed to in order to ensure that their care is in their insurance network should end up with large, unexpected bills from an out-of-network provider. Congress passed the bipartisan No Surprises Act last year to address this problem, implementing crucial patient protections from unexpected and outrageous medical bills. As the administration implements this law, these protections must be extended to all relevant facilities so that patients are covered wherever they seek care.

The No Surprises Act provides specific protections for patients when they receive non-emergency services at in-network facilities. Patients receiving care at medical facilities reasonably assume that doctors and nurses at in-network facilities will also be covered. Unfortunately, that is not always the case, and out-of-network providers have been charging patients excessive fees as a result. To stop this abusive practice, the No Surprises Act capped out-of-network cost-sharing for most emergency and non-emergency services provided at medical facilities. Now, patients are responsible for no more than their in-network cost-sharing for these services.

In 2021, the administration issued an interim final rule spelling out these facility-based protections in greater detail. The rule defined “facility” to include hospitals, hospital outpatient departments, and ambulatory surgery centers. The statute explicitly authorizes the agencies to identify additional facilities, and the agencies sought comment on this issue in their July rulemaking.

As of now, the status of many facilities has yet to be determined, including birthing centers, clinics, hospice facilities, addiction treatment centers, nursing homes, and urgent care centers. Given the remaining questions about the scope of these protections, I encourage the agencies to provide clarity. Patients seeking care at the remaining uncovered facilities are being advised to

ask these doctors what their billing practices are and whether these facilities are in network. This contradicts the intent of the law, as the No Surprises Act was meant to protect patients from exactly this kind of burden. Patients shouldn't need to question every doctor and nurse who treats them, nor should they have to parse through regulatory language to determine if a specific facility is covered by this law.

I am therefore writing to request that the Departments further clarify the scope of these regulations. Specifically, the administration should apply the No Surprises Act's protections to any in-network facility where a consumer may be treated by an out-of-network provider. This list may include birthing centers, clinics, hospice facilities, addiction treatment centers, nursing homes, or urgent care centers, but should also permit future flexibility as additional facilities are identified. Taking this approach will ensure that the coverage intended by the No Surprises Act is provided.

I look forward to continuing to work with you to see these protections implemented.

With every good wish,

A handwritten signature in blue ink that reads "Maggie Hassan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Margaret Wood Hassan
United States Senator