

December 6, 2021

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9908-IFR, RIN 0938-AU62
P.O. Box 8010
Baltimore, MD 21244-8010

Submitted at <https://www.regulations.gov/docket/CMS-2021-0156/document>

RE: RIN 0938-AU62, Requirements Related to Surprise Billing; Part II: Impact and Alternative to Good Faith Estimate Requirements on FQHCs

Dear colleagues,

We are writing today on behalf of Howard Brown Health. We are a Federally Qualified Health Center (FQHC) with 12 clinical sites located across Chicago, IL. Over the course of 2020 amidst the COVID-19 pandemic, we completed over 138,000 patient visits, ensuring that our patients had access to high-quality, culturally responsive care regardless of ability to pay. Rooted in LGBTQ+ liberation, Howard Brown provides affirming healthcare and mobilizes for social justice. We are agents of change for individual wellbeing and community empowerment. We are one of over 1400 FQHC organizations nationally, which together serve 30 million medically-underserved individuals at more than 14,000 locations regardless of insurance status or ability to pay for services.

Howard Brown strongly agrees that patients should not be subject to surprise billing, and that cost should not pose a barrier to care, for uninsured or any other patients. These commitments are at the heart of the FQHC model, which has been in existence for over 50 years. While we certainly understand the intent of the Interim Final Rule (IFR), we have concerns that the Good Faith Estimate (GFE) requirements outlined in the IFR would provide no value-added to FQHC patients, while imposing major administrative demands on FQHC operations and staff. Accordingly, **we request that CMS not apply the current IFR rules to FQHCs, with one potential exception.**

Below we provide a summary of our concerns and proposed alternatives. For detailed discussion of each point, we would direct you to the comment submitted by the Florida Association of Community Health Centers (FACHC).

1. The current IFR should not be applied to FQHCs, as doing so would:
 - provide no value-added for patients;
 - often be impossible to implement as they do not fit with the FQHC model of care;

- create significant confusion – and a potential chilling effect – among FQHC patients,
 - impose enormous administrative demands on FQHC operations and staff.
2. If necessary, CMS could require FQHCs to issue GFEs in the rare circumstances when a patient:
- has been evaluated by an outreach worker to determine their eligibility for discounts, and
 - is scheduling/requesting charges information for items or services for which their excepted charges (factoring in the discounts for which they are eligible) could be \$400 or greater.
3. While we strongly urge CMS to not apply the current IFR requirements to FQHCs, the following adjustments would be critically needed if CMS were to do so:
- use enforcement discretion when working with CHCs that are demonstrating a good faith effort to implement the new GFE rules.
 - require that GFEs be issued only upon patient request.
 - not require FQHCs (or other providers) to issue GFEs that are clearly redundant of ones that were recently issued.

Again, for a detailed discussion of each of these points, we refer you to the comments submitted by the Florida Association of Community Health Centers (FACHC), which we strongly support.

We thank you for your consideration of these comments, and for your efforts to protect all patients from surprise medical bills. If you have any questions, please contact Tim Wang, Director of Policy and Advocacy at TimothyW@howardbrown.org.

Sincerely,

David Ernesto Munar
President and CEO