

Meet your new rights under the No Surprises Act

Dan: Hey there. Here is something I don't think I've ever said on this show before: This episode is about a big, important piece of good news.

I mean, I'm gonna kind of ruin it in a couple of minutes with a bunch of warnings -- which I promise will be both important and useful -- but let's just enjoy this for right now.

Starting January first of this year-- so, like right now-- a new federal law called the No Surprises Act protects us against what's been one of the most outrageous experiences our health care system has to offer.

Which you know, if you've been listening to this show-- or, I don't know, just living in the U.S.-- is really saying something.

We're talking about Surprise Bills — full name, surprise out-of-network bills — which go like this: You go to a hospital — like to an emergency room, or for surgery, or to give birth — and you make sure to pick a hospital that is in-network for your insurance. I mean, of course you do, right?

Except then, somebody gets involved in your care who doesn't work directly for the hospital, and who doesn't take your insurance.

SURPRISE! You get a great big bill from them. Your insurance doesn't cover much of it, and you're on the hook for the rest of whatever wild amount is written on that bill.

A lot of times, this would be the kind of provider you don't even pick for yourself, like an ER doc, or an anesthesiologist, or a radiologist.

These bills have been super, super common. The feds estimate that ten million surprise bills go out every year. An academic study said that one out of every five ER visits results in one. And frankly, I've wondered if those numbers are lowballing things.

The No Surprises Act says: Hey guess what? This is no longer your problem. You're just gonna pay whatever you would've paid if this provider had been

in-network. They will have to work out the rest with your insurance company, but you. Are. Done.

And this is a big, honking deal. It puts a couple episodes of this show out of date. I'm gonna record new intros for them one of these days. It's awesome.

And there are LIMITS to these protections. Of course there are. And now that we have these new rights on paper, we're gonna have to learn how to defend them. Because nothing's ever as easy as it should be.

Lucky for us, I got to talk with someone who knows ALL the ins and outs. So. Here we go.

This is An Arm and a Leg, a show about why health care costs so freaking much, and what we can maybe do about it. I'm Dan Weissmann. I'm a reporter, and I like a challenge, so my job here is to take one of the most enraging, terrifying, depressing parts of American life and bring you a show that's entertaining, empowering and useful.

And even though I'm going to be a little bit of a buzzkill about it, I'm here to tell you: We've got some useful new powers here, and I'm pretty psyched. Here's our guide.

Patricia Kelmar: I'm Patricia Kelmar. I'm the Healthcare campaigns, director. with US PIRG the public interest research group.

Dan: PIRG is a consumer-advocacy organization. Health care is an area where we need all the advocacy we can get. Patricia runs that for them-- which means, among other things, she's lobbied on this issue a ton – to Congress, rulemakers, even states.

So she knows this new law inside out-- where it's strong and where it's weak.

And full disclosure: she's one of the hundreds of listeners who gave money to An Arm and a Leg last year. Right on.

So. We've had the good news. Let's get into the caveats. First, most important: This law pretty much only applies if you're being seen in a hospital.

Which is NOT the only place where you could be in danger of getting hit with a surprise bill. For instance

I tell Patricia: This happened to me once, like at my doctor's office, when I went for a checkup.

Dan: my doctor was like, Hey man, I think you get a vitamin D test, go right over there. I was like, sure, great. A couple of days later, like yeah, you don't have a vitamin D problem. A couple of weeks. There's like 600 bucks.

Patricia Kelmar: exactly.

Yeah.

Dan: So, you know: BE WARY. And of course it's not just at your doctor's office. You know where else you can get hit with a surprise bill? Pretty much ANYWHERE that's not a hospital. Including most urgent care centers.

I say MOST, because some urgent-care centers *are licensed* to practice emergency medicine. And if they're licensed that way, then they're covered by this law. But

Patricia Kelmar: people go to urgent care centers and they just see that it's an urgent care center. They don't know to ask how it's licensed

Dan: Patricia's like: Even if you did ask...

Patricia Kelmar: . I guarantee you, the person at the front desk doesn't know how it's licensed.

Dan: Yeah. So if the building doesn't say HOSPITAL on it, just assume you're screwed.

And before you get to the building, there's this other place where you get no protections from this law: It does not cover ambulances.

Patricia Kelmar: ground ambulances ex excluded.

Dan: Yeah, you can hear how thrilled Patricia is about that one.

But also, note: Ground ambulances. Because there's also... air ambulances-- you know, helicopters?

They're covered. Which is great, because they've been sending people out of network bills in the tens of thousands of dollars all the time. HUGE problem. That's supposed to be gone now, they're gonna have to work it out with insurers, you're not on the hook.

But regular ambulances? Yeah. A thousand bucks is not an unusual charge, and being out-of-network is a very normal thing, and this No Surprises Act does exactly zero about that one.

So that's some big good news, bad news for you: Where we do and don't get these protections.

Here's another one. The good news is: What if you're IN a hospital-- like not an emergency-room scenario, you've been admitted-- and they're suggesting you see some doc -- or physical therapist, or whoever-- who's not in your network?

They've gotta tell you. Ahead of time. In writing. They've gotta give you a form with a good-faith estimate of what that encounter with this person is likely to cost you. And they've gotta give you the names of some in-network folks who could give you the same service.

That's the good news. The comically bad news? That form is actually a waiver with a deeply-misleading name. It's called the Surprise Billing Protection Form. Patricia's like. Yeah that name is backwards.

Patricia Kelmar: the reality is if you sign it, you no longer have the protections from the surprise billing law. And that means now you are financially obligated to pay that out of network provider, whatever they want to charge you that's listed in the estimate.

Dan: So, yeah. KEEP AN EYE PEELED FOR THAT ONE.

Now, not to make you dizzy or anything, but I've got another couple pieces of GOOD news about this form:

One: In a lot of the most-common situations-- like the Emergency Room-- they're not even allowed to ASK you to sign this waiver.

and certain kinds of *providers* -- including ER docs, assistant surgeons, anesthesiologists, and radiologists-- aren't allowed to ask you to sign it anywhere at all.

So that's big.

And two: We said this before, but it's worth repeating. That form has to include a good-faith estimate of what you're likely to get billed, AND it has to give you names of in-network folks you COULD see instead.

OK, so those are our rights. How do we protect them? Patricia's got some tips-- and unfortunately we've got some more loopholes to deal with-- right after this.

This episode of An Arm and a Leg is produced in partnership with Kaiser Health News. That's a non-profit newsroom covering health care in America. Kaiser Health News is not affiliated with the health care giant, Kaiser Permanente. We'll have more information about KHN at the end of this episode.

So, we've got some new rights. How do we defend them?

Patricia Kelmar's first tip is: Start before you decide what hospital you're going to. Make sure it's someplace where you'll GET these protections. That means they have to be in your insurance network.

So of course you've got to ask them. And you've got to ask them The Right Way. Here's what you don't ask. You don't ask: Do you take my insurance? Like, do you take Blue Cross? Or, do you take Aetna? Here's Patricia:

Patricia Kelmar: many providers will answer the question of, do you take my insurance with, yes, we'll take your insurance and we'll also send you an out of network bill. So the '

Dan: cause they're like we take insurance from the company that provides your

insurance. That doesn't mean we take your insurance,

Patricia Kelmar: particular insurance

so everyone has to get in their head. The specific question is, are you in my insurance network? That's the question?

Dan: And I'm looking at my insurance card and it says, my plan is called blue cross gold beta theta Delta 5 72, silver

Patricia Kelmar: Exactly

Dan: And then like, am I, are you in my network for that

Patricia Kelmar: right, right.

Dan: All right, great, so you've done that. You're at a place that is in your insurance network. You've got rights.

Now, What if someone is violating them? Trying to get you to sign a waiver -- oh, I mean a Surprise Billing Protection Form -- in one of those situations where they're not actually allowed to? What if you do everything right, you pick an in-network hospital, and you end up GETTING a surprise bill anyway?

Patricia's like: That's a violation you can Report.. And there's a number to call. You ready? [I'm gonna post it wherever you're listening to this]:
1-800-985-3059.

Got that? 1-800-985-3059.

It's a federal hotline. Which is great to have, because the way the No Surprises Act is written, it could be REALLY difficult to know who to call otherwise. There's a whole weird flowchart:

Could be an agency in your state government, could be the U.S. Department of Labor, a million different variations, depending on who's causing the problem, what state you live in, what kind of insurance you have, all of it.

Patricia says, you don't need to know that. You just need to call this number.

Patricia Kelmar: they have all the data and information that they need to track down what the next steps are.

And then they'll get back to you. And during that time, if you're complaining about a bill and you filed a complaint about it You should know that, your debt cannot be reported to a collection agency and you will not, be required to pay during that time until the resolution of that bill.

Now, granted. Person on the other end of the line may have to go to six places to figure out the answer for the person who called them.

Dan: And real talk? They may not necessarily know where those six places are. I asked Patricia who is actually on the other end of that line, because it seems like they'd have to be ... super special. She said the feds are contracting with a call center company.

I was like: Aren't these the same companies that the cable company -- or the health insurance company -- hires to answer our calls? She's like, yeah. Having a place to call is an upgrade, but...

Patricia Kelmar: **Guaranteed. It's not going to work perfectly for awhile , but people shouldn't despair. Um, they should keep insisting on their rights.**

And the only way the call center will get better is if we can. Pushing on it Um, it's Yeah.

it is going to be tough, but I'm glad there's one number

Dan: **right. To start is better than right. Every, when you're pushing the rock uphill, every inch is of victory. Um,**

so,

Patricia Kelmar: **the victory, Dan.**

Dan: That's the spirit.

And are you ready for one last good news, bad news thing? Here it is. The good news is: There are even protections here for people who DON'T have insurance.

Or if you're thinking, "Maybe I don't want to use my insurance here?" Because maybe there's a cash-pay price, and you've got a high deductible, and your insurance wouldn't kick in here anyway? Hey, it happens a lot.

Here's the good news: Any provider you'd see in that situation -- not just in a hospital, but anywhere-- owes you a good-faith estimate of what you'd be expected to pay. These are the same kinds of good-faith estimates they owe you in a hospital if they want you to sign that waiver and give up surprise-billing protections. And in either case, if their bill is more than 400 bucks over that good faith estimate? That's their problem. You've gotta pay the estimated cost plus 400 bucks, but they've gotta eat the rest.

Patricia Kelmar: , so that Is uh, an important and good thing. However, that \$400 is per provider. So you could see in a surgery, you could have. Four or five providers. Right. And so if each one of them goes over by \$399 it's yeah, yeah. In 99 cents, it could still be a pretty significant bill.

So people should just be aware of that yeah.

Dan: All right. All right. They're tricky. They're tricky.

Patricia Kelmar: It's a business. Healthcare is a business and they're going to continue to stay in business

Dan: Well this is is really, really, really, really helpful,

Even though hair raising and alarming.

Patricia Kelmar: I know. I don't like you pointing out all the, difficulties with this

Dan: well, sorry, man, but we gotta, , it's one thing to have rights. It's another thing to know your rights.

It's another thing to know how to fight for them . You know, we got to know this

Patricia Kelmar: Absolutely.

Dan: So there you go! The full 101 on our rights under the No Surprises Act. And how we stick up for them. We wrote all this stuff down for a recent edition of our First Aid Kit newsletter -- you can find every issue at arm and a leg show dot com, slash, newsletter -- and I definitely recommend bookmarking that one.

And as it turns out we've got a couple MORE things. Because as I was getting this episode ready, I got an email from a listener who said I WORK IN MEDICAL BILLING and I WANT TO HELP.

I was like Yes, please!

Julia Nigrelli: I'm Julia Negrilli. I am a senior consultant with a company called Chi-Matic. It's a consulting firm that specializes in kind of the intersection between billing, healthcare, operations. It, yeah. All of those great fun things.

Dan: When she wrote me, Julia had offered a bunch of tips, including: I can tell you what I really think about the No Surprises Act. And why a lot of providers aren't going to be in compliance right away.

When we talked, Julia was like, first: This law is super-important. I'm a fan. AND... one part that's gonna be super-hard for providers is that good-faith estimate for folks who don't have insurance or don't want to use it. One big reason:

I mentioned: this particular protection applies not just at a hospital but ANYPLACE you might get health care. Your primary care doc. A specialist's office. A physical-therapy place. And if you've scheduled the appointment in advance, they've gotta give you the estimate BEFORE they see you. (Even if you're going to urgent care, you can *ask* for one there. They're supposed to give it to you.) But Julia says: that's like a mechanic giving you an estimate without looking at your car.

Julia Nigrelli: depending upon what you present with in the doctor's office, you could have point of care testing ordered.

We can order an x-ray. We could do an injection, like our estimate can go so far off.

Dan: Yeah.

Julia Nigrelli: And we won't know that until you're seen.

Dan: I mean, I get it. And I don't know exactly what the answer is. She says they're working on it. So this is an FYI thing: that estimate? Expect it to be weird.

And then-- I said I had a couple things, right? Julia ALSO had a really big tip about another requirement for that good-faith estimate, if you don't have insurance, or don't want to use it:

Julia Nigrelli: that estimate for the self pay patient should also include any available financial assistance that the hospital could potentially provide to you. and if it doesn't, ask.

Dan: Yeah! That is what I call a good tip. As we have discussed here before: non-profit hospitals are legally required to have financial assistance policies for folks with limited incomes. And a LOT of people can qualify. If a hospital knows you qualify, the estimate has to factor in that financial assistance. If you don't see that on your estimate: Ask to see that policy, find out how to apply... and see if they can respond in time to adjust that estimate.

We'll hear from Julia again on this show. Meanwhile, I'll have a little more of her wisdom, and more details about what the No Surprises Act does and doesn't protect us from, in next week's edition of our First Aid Kit newsletter. Again, you can read the newsletter online, or sign up to get it in your inbox at [arm and a leg show dot com, slash, newsletter](http://armandalegshow.com/newsletter).

That's [arm and a leg show dot com, slash, newsletter](http://armandalegshow.com/newsletter).

I'll catch you soon.

Till then, take care of yourself.

This episode of An Arm and a Leg was produced by me, Dan Weissmann, with help from Emily Pisacreta, and edited by Marian Wang. Daisy Rosario is our consulting managing producer.

Adam Raymonda is our audio wizard. Our music is by Dave Winer and Blue Dot Sessions.

Gabrielle Healy is our managing editor for audience. She edits the First Aid Kit Newsletter and works with Izz Scott LaMagdeleine to help us be entertaining, empowering and useful on social media.

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They share an ancestor. This guy, Henry J Kaiser. He had his hands in a lot of different stuff. Smelted aluminum. Owned some early TV stations. Built cars-- including the Jeep and a model called the Henry J.

When he died, more than 50 years ago, he left half his money to the foundation that later created Kaiser health news. You can learn more about him and Kaiser health news at [arm and a leg show dot com slash Kaiser](http://armandalegshow.com/Kaiser).

Diane Webber is national editor for broadcast and Taunya English is senior editor for broadcast innovation at Kaiser health news. They are editorial liaisons to this show.

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And: BIG thanks to everyone who is pitching in financially to help get this show made. We could not do it without you. Our big fund-raising season is over, but we have MORE people to thank this week, who have come aboard recently. Thanks this time to: