

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 54**

[REG-107706-21]

RIN 1545-BQ01

Requirements Related to Surprise Billing; Part I**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The IRS is proposing regulations that protect consumers from surprise medical bills for emergency services, air ambulance services furnished by nonparticipating providers, and non-emergency services furnished by nonparticipating providers at participating facilities in certain circumstances. Elsewhere in this issue of the **Federal Register**, the IRS is issuing the temporary regulations that correspond to this proposal at the same time that the Office of Personnel Management (OPM), the Employee Benefits Security Administration of the Department of Labor (DOL), and the Office of Consumer Information and Insurance Oversight of the Department of Health and Human Services (HHS) are issuing substantially similar interim final rules with request for comments. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES:

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 13, 2021.

Applicability date: It is proposed that these regulations apply on and after plan years beginning on or after January 1, 2022.

ADDRESSES: In commenting, please refer to file code REG-107706-21. Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-9909-IFC, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-9909-IFC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

FOR FURTHER INFORMATION CONTACT: Kari DiCecco, (202) 317-5500, Internal Revenue Service, Department of the Treasury, for issues related to Surprise Billing.

SUPPLEMENTARY INFORMATION: Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://regulations.gov>. Follow the search instructions on that website to view public comments.

Background and Regulatory Impact Analysis

The Treasury Department and the IRS proposes to add §§ 54.9816-1, 54.9816-2, 54.9816-3, 54.9816-4, 54.9816-5, 54.9816-6, 54.9817-1, and 54.9822-1 to the Miscellaneous Excise Tax Regulations to protect consumers from surprise medical bills for emergency services, air ambulance services furnished by nonparticipating providers, and non-emergency services furnished by nonparticipating providers at participating facilities in certain circumstances.

The temporary regulations published elsewhere in this issue of the **Federal Register** add §§ 54.9816-1T, 54.9816-2T, 54.9816-3T, 54.9816-4T, 54.9816-5T, 54.9816-6T, 54.9817-1T, and 54.9822-1T to the Miscellaneous Excise Tax Regulations. The proposed and temporary regulations are being published as part of a joint rulemaking with the OPM, DOL, and HHS. The text of temporary sections added elsewhere also serves as the text of the corresponding sections proposed in this document. The preamble to the temporary regulations contains the agency's rationale and provides a regulatory impact analysis.

Drafting Information

The principal author of this notice of proposed rulemaking is Kari DiCecco, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes).

The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the OPM, DOL, and HHS.

List of Subjects in 26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph. 1.** The general authority citation for part 54 continues to read as follows:

Authority: 26 U.S.C. 7805, unless otherwise noted.

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■ **Par. 2.** Section 54.9801-1 is revised to read as follows:

§ 54.9801-1 Basis and scope.

[The text of proposed § 54.9801-1 is the same as the text of § 54.9801-1T published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Section 54.9801-2 is amended by revising the introductory text to read as follows:

§ 54.9801-2 Definitions.

[The text of proposed § 54.9801-2 introductory text is the same as the text of § 54.9801-2T introductory text published elsewhere in this issue of the **Federal Register**].

■ **Par. 4.** Section 54.9815-2719A is amended by revising paragraph (c) to read as follows:

§ 54.9815-2719A Patient protections.

[The text of proposed § 54.9815-2719A(c) is the same as the text of § 54.9815-2719AT(c) published elsewhere in this issue of the **Federal Register**].

■ **Par. 5.** Sections 54.9816-1, 54.9816-2, 54.9816-3, 54.9816-4, 54.9816-5, 54.9816-6, 54.9816-7, 54.9817-1, and 54.9822-1 are added to read as follows:

Sec.

54.9816-1 Basis and scope.

54.9816-2 Applicability.

54.9816-3 Definitions.

54.9816-4 Preventing surprise medical bills for emergency services.

54.9816-5 Preventing surprise medical bills for non-emergency services performed by nonparticipating providers at certain participating facilities.

54.9816-6 Methodology for calculating qualifying payment amount.

54.9816-7 Complaints process for surprise medical bills regarding group health plans.

54.9817-1 Preventing surprise medical bills for air ambulance services.

54.9822-1 Choice of health care professional.

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§ 54.9816-1 Basis and scope.

[The text of proposed § 54.9816-1 is the same as the text of § 54.9816-1T published elsewhere in this issue of the **Federal Register**].

§ 54.9816-2 Applicability.

[The text of proposed § 54.9816-2 is the same as the text of § 54.9816-2T published elsewhere in this issue of the **Federal Register**].

§ 54.9816-3 Definitions.

[The text of proposed § 54.9816-3 is the same as the text of § 54.9816-3T published elsewhere in this issue of the **Federal Register**].

§ 54.9816-4 Preventing surprise medical bills for emergency services.

[The text of proposed § 54.9816-4 is the same as the text of § 54.9816-4T

published elsewhere in this issue of the **Federal Register**].

§ 54.9816-5 Preventing surprise medical bills for non-emergency services performed by nonparticipating providers at certain participating facilities.

[The text of proposed § 54.9816-5 is the same as the text of § 54.9816-5T published elsewhere in this issue of the **Federal Register**].

§ 54.9816-6 Methodology for calculating qualifying payment amount.

[The text of proposed § 54.9816-6 is the same as the text of § 54.9816-6T published elsewhere in this issue of the **Federal Register**].

§ 54.9816-7 Complaints process for surprise medical bills regarding group health plans.

[The text of proposed § 54.9816-7 is the same as the text of § 54.9816-7T published elsewhere in this issue of the **Federal Register**].

§ 54.9817-1 Preventing surprise medical bills for air ambulance services.

[The text of proposed § 54.9817-1 is the same as the text of § 54.9817-1T published elsewhere in this issue of the **Federal Register**].

§ 54.9822-1 Choice of health care professional.

[The text of proposed § 54.9822-1 is the same as the text of § 54.9822-1T published elsewhere in this issue of the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

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