



National Coordinating Committee for Multiemployer Plans  
Lawyers and Administrators Meeting

# Surprise Billing and the IDR Process

October 1, 2025 / Meghan Horn

# No Surprises Act Update

- The No Surprises Act, which limits when a patient can be balance billed for out-of-network care, has faced numerous implementation challenges, including an overburdened Independent Dispute Resolution (IDR) system and multiple lawsuits
  - Regulations proposed to overhaul the process are not yet finalized
- Congress is considering legislation that would impose significant penalties on health plans who lose IDR cases and do not pay timely
  - No Surprises Enforcement Act
- Other aspects of the law, such as the requirement to issue Advanced Explanation of Benefits forms, have not yet been implemented

# Independent Dispute Resolution (IDR)

- If the group health plan and out-of-network (OON) provider cannot agree on OON payment, the amount the plan has to pay the OON provider is determined through the IDR process
- There is no threshold amount for claims to go to the IDR process
- 2025 IDR fees published December 27, 2024

# IDR Process and TMA III

- On August 24, 2023, in *Texas Medical Association, et al. v. United States Department of Health and Human Services*, the U.S. District Court for the Eastern District of Texas issued a judgment and order vacating certain portions of the Departments' August 2022 final rules (TMA III)



# TMA III Holding

- The district court vacated:
  - Portions of the QPA methodology, including counting rates for all items and services regardless of the number of claims paid; using book of business rates instead of each plan's rates; rules governing calculation of QPA for providers in the same or similar specialty; exclusion of bonus, incentive and risk sharing payments, and exclusion of single case agreements
  - The “clean claim” rule for air ambulance services, which states that the 30-day initial payment period starts when the plan has a clean claim
- Departments appealed

# TMA III Appeals Court Decision

- On October 30, 2024, the 5th Circuit reversed the district court ruling in part
- The court upheld the clean claim rule, the rule concerning rules for all items, regardless of claims, and exclusion of single case agreements. However, the court did not address the book of business holding.
- In light of *Loper-Bright*, the court held there was a specific delegation of authority to HHS
- On May 30, 2025, 5th Circuit vacated its October ruling and granted petition for rehearing *en banc*



# FAQ 71

- Plans must calculate QPAs consistent with the rules that remain in effect after TMA III using a good faith, reasonable interpretation
- The Departments will exercise enforcement discretion for plan QPA calculation in accordance with the July 2021 IFR in effect before TMA III for items and services furnished before February 1, 2026
- Extended the enforcement discretion until TMA III litigation is resolved (expected August 1, 2026)
- Plans must still disclose the QPA to providers and participants and should disclose which methodology is used

# Technical Assistance on Reopening Closed Disputes Due to Error

- IDR entities may reopen closed disputes when errors are found after the dispute was closed
- Clerical, factual and procedural errors
- IDR entity must submit a request to reopen to the Departments via IDR portal
- Applies to requests to reopen closed disputes made after June 6, 2025, or before June 6, 2025 but to which the Departments have not responded



# Recent Reports from CMS

- Fact Sheet: Clearing the Independent Dispute Review Backlog, September 19, 2025
- New bi-monthly reports of summary data on disputes initiated, closed and why
- 2024 Q3 and Q4 data published May 28, 2025
- High volume of disputes and questions about dispute eligibility continue, but disputes are being resolved more quickly

# Questions?

