Segal

Surprises Billing and Independent Dispute Resolution Update

National Coordinating Committee for Multiemployer Plans Lawyers and Administrators Meeting

September 15, 2026 / Elena Lynett/Katy Spangler

No Surprises Act Update

The No Surprises Act (NSA) prevents providers from balance billing patients who receive emergency services in the emergency department of a hospital, at an independent freestanding emergency department and from air ambulances. The law also protects patients who receive certain non-emergency services from an out-of-network provider at an in-network facility.

The NSA's Independent Dispute Resolution (IDR) system has been overburdened, faced multiple lawsuits challenging methodology and presented many challenges including excessive provider awards.

What is the QPA?

- The Qualified Payment Amount is generally the median of the contracted rates recognized by the plan or issuer on January 31, 2019, for the same or similar item or service that is provided by a provider in the same or similar specialty or facility of the same or similar facility type and provided in the geographic region in which the item or service is furnished, increased for inflation.
- The Departments of Labor, Health and Human Services and the Treasury establish the methodology for calculating the QPA.

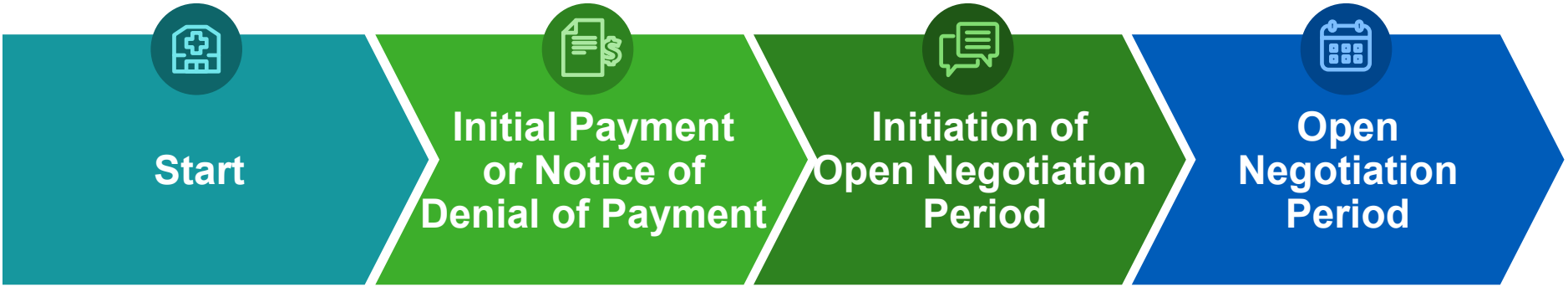
Why Does the QPA Matter?

- It is used to determine the patient's cost-share. Patients can only be required to pay copays, coinsurance and a deductibles for surprise out-of-network services based on the QPA. Cost-sharing must count toward in-network deductible and out-of-pocket maximum.
- The QPA was intended to serve as a baseline as providers and plans and insurers work to negotiate how the outstanding bill will be paid.

Independent Dispute Resolution

- If the group health plan and the OON provider cannot reach an agreement on the OON payment, the amount the health plan has to pay the OON provider is determined through an independent dispute resolution (IDR) process.
- There is no threshold amount for claims to go to the IDR process.
- The process is “baseball style,” meaning that the IDR reviewer picks one of the parties’ offers.
- The IDR Entity must consider certain factors in making its decision, including the median in-network rate for the service, as well as other information the parties provide.

Steps Preceding the Federal IDR Process



An item or service results in an NSA covered charge

Must be sent by the plan no later than 30 calendar days after a clean claim is received

Open negotiation must be initiated within 30 business days of receipt of initial payment or denial

The parties must exhaust 30 business day open negotiation period before either party may initiate the Federal IDR process

Federal IDR Process Overview

Submit a Notice of IDR initiation within 4 business days after close of open negotiation period.

Accept IDR Entity selected by initiator, or object and propose another Entity.

Parties must submit offers not later than 10 business days after selection of IDR Entity.

IDR Entity has 30 business days after date of selection to select one of the offers and notify parties and Departments.

Plan must pay amount due within 30 calendar days of determination.

QPA Litigation Has Added Complexity

- TMA I and TMA II addressed the role of the QPA in IDR, holding that arbitrators may not give the QPA greater weight than the statute's other enumerated factors; TMA III addresses how the QPA itself is calculated.
- On August 11, 2026, the en banc Fifth Circuit issued its decision in TMA III regarding QPA calculations for IDR.
- The ruling affirmed a district court decision striking down specific regulations and guidance related to calculating the Qualifying Payment Amount (QPA) under the No Surprises Act. Current enforcement relief permits continued use of earlier QPA methodologies for items and services furnished before Oct. 1, 2026, and agencies said further guidance would follow the final en banc disposition.
- On August 13, the administration released a statement. The Federal agencies are currently reviewing the judgment to issue updated guidance and highlighting that the IDR process remains fully operational in the interim.

What was intended…..

The NSA's IDR process was expected to lead to balanced outcomes. The requirement for open negotiations before IDR can be initiated, the loser-pays requirement for IDR entity fees, and the use of final-offer (baseball-style) arbitration were all included as incentives for compromise.

Spending On IDR Process Pushes No Surprises Act Costs To More Than $22.4 Billion Over Just Four Years | Center on Health Insurance Reforms

IDR Driving Unexpected Outcomes

- Patient protections from surprise medical bills are working from the patient perspectives. However, the IDR payment dispute process is creating unexpected results.
- Increased healthcare costs driven by the IDR process will impact patients negatively in the long term.
- Providers continue to seek increased enforcement of the existing IDR framework while plans and payers continue to seek reform of the IDR process

Georgetown Research

- Georgetown University Center on Health Insurance Reforms published a study on the No Surprises Act IDR process in September 2025 and published updates to its study in March 2026 and August 2026
- Key takeaways include:
  - IDR disputes continue to rise
  - Large provider groups and middlemen continue to prevail
  - Ineligibility disputes and default decisions persist
  - Litigation activity has increased
  - Providers continue to win high amounts

Georgetown University August 2026 Updates

- In its most recent update Georgetown highlights:
  - the IDR system has resulted in total costs of $22.4 billion from 2022 to 2025.
  - This includes $15.6 billion in payment amounts awarded by IDR entities that exceed in-network rates; $4.2 billion in internal administrative costs; and $2.7 billion in IDR administrative and entity fees.
  - This estimate dramatically exceeds Georgetown's previous estimate of $5 billion in total costs for 2022 through 2024.
  - In 2025 alone, total IDR costs were $16.6 billion, an amount nearly 3.5 times higher than for 2024 alone.

IDR Trends

- Volume of cases continue to increase
  - January – June 2025: 1.2 million new disputes submitted
  - Compare to January – June 2024: 590,000 new disputes submitted
- Providers continue to win most cases
  - 2025: providers won 88%
  - 2024: providers won 85%
  - 2023: providers won 81%
- Geographic location may influence the volume of IDR claims a plan is experiencing

Who Are Initiating IDR Cases

- Providers and Facilities make up **99.9%** of the entities initiating IDR cases
- Plans make up **.01%** of the entities initiating IDR cases
- Top four Provider Groups make up 56% of disputes filed in the first half of 2025
  - Halo MD, Team Health, Radiology Partners, SCP Health
- Providers Continue to Win High Amounts, ranging 3-9% times the in-network rate
- Percentage of QPA by Provider Group
  - Halo MD: 920 (Q1/2025) 835 (Q2/2025)
  - Radiology Partners: 582(Q1/2025) 594 (Q2/2025
  - SCP: 370 (Q1 and Q2 2025)
  - Team Health: 277 (Q1 and Q2 2025)

Paragon Health Institute

- *Fixing the No Surprises Act, Scaling Back and Reforming the Federal Arbitration System*
  - Dispute initiations reached 2.56 million—115 times the government's initial projection
  - Providers won 86.4 percent of disputed line items
  - Providers received median awards nearly **four times** the Qualifying Payment Amount, with some specialties receiving far higher awards; about 5.5 times the Medicare

Paragon Health Institute

- Emergency medicine providers had median awards of 3.5 times the QPA, while neurological surgery providers had median awards of 28 times the QPA, and physician assistants about 26 times the QPA.
- At the beginning of 2023, the 90th percentile of awards was around eight times the QPA; by the end of 2025, it had surged to nearly 18 times the QPA.
- Insurer win rates remained low even when they made offers of 600 percent or more of the QPA.
- Emergency medicine and radiology made up about 29 percent and 18 percent, respectively, of all disputed line items.

Niskanen Center Study

"…the program itself now costs nearly $3 billion a year. Without reform, patients will continue to bear these costs — not through the surprise bills the law was designed to eliminate, but through the higher premiums and slower wage growth that follow when insurers pass their higher costs to customers."

"The 2025 data reveal an almost 75 percent increase in the number of disputes initiated from the year before, with more than 2.5 million disputes initiated and nearly 2.2 million payment determinations decided. This is in stark contrast to the federal government's original estimate that the IDR program would receive about 17,000 cases a year."

New data, same problem: No Surprises Act arbitration abuse persists - Niskanen Center

IDR Final Operations Rule

- The Departments of Labor, HHS and Treasury published a final rule regarding IDR operations on June 4, 2026.
- The final rule aims to make improvements related to communications among group health plans and insurers, providers, and facilities with the certified IDR entities.
- The IDR Operations Rule **does not address** other challenges plans are currently facing regarding IDR outcomes.
  - Segal will host a separate internal webinar regarding how we can support our clients in monitoring/implementing the IDR Operations Rule

While We Await Reform…

- **Request carrier reporting.** Plan sponsors should ask their carriers for plan-specific IDR reporting, including unpaid, outstanding IDR awards.
- **Review network adequacy**. Plan sponsors should scrutinize network adequacy in high-exposure specialties such as ER, radiology, neurology and breast reductions, where award payments are severe.
- **Discuss network and contracting strategies with the carriers/TPAs**. Facility-level penalties for out-of-network charges at in-network facilities can deter a significant source of elective IDR claims and enhance plan leverage.
- **Consider network optimization and steerage strategies to reduce out-of-network exposure**. Examples include Centers of Excellence with bundled payment arrangements, member education on appropriate sites of care, and plan design changes that limit coverage for non-emergency freestanding ER visits.

Additional Plan Considerations

- **Understand IDR timelines when forecasting claims**. Given the shrinking dispute-resolution timeline, plans should build IDR outcomes into ongoing claims and stop-loss forecasting.
- **Consider Specialized NSA/IDR Vendors.** Rather than relying solely on carrier processes, some self-funded plans are engaging firms that substantially improve outcomes compared to industry averages.
- Seek network performance guarantees in future plan year to limit the number of network inpatient or outpatient events that result in any non-network provider claim when patient enters network facilities.
- **Audit TPA processes to ensure IDR compliance.**
- **Continue to monitor guidance and federal legislative and/or regulatory updates**

Thank You and Questions