

Blog Post

The No Surprises Act: Key Developments to Watch in 2026

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As the No Surprises Act (NSA) enters 2026, federal agencies are expected to focus on three key issues: finalizing delayed rulemaking, issuing guidance to address operational challenges in the Independent Dispute Resolution (IDR) process, and managing enforcement discretion amid ongoing litigation. At the same time, several statutory provisions remain unimplemented, creating regulatory uncertainty for health plans, providers, and other stakeholders.

Below are key NSA developments to watch in 2026.

1. Implementation of Previously Delayed NSA Provisions

Numerous NSA provisions remain unimplemented despite their statutory deadlines. In 2021, the Departments of Labor, Health and Human Services (HHS), and the Treasury (collectively, the Departments or Tri-Agency) announced enforcement delays for some NSA requirements, including:

- **Advanced Explanation of Benefits (EOBs):** Requirements for plans to provide detailed pre-service cost and coverage information to insured individuals.
- **Provider directory accuracy standards:** Obligations for plans to update and verify

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provider directories and respond to inquiries regarding network participation.

- **Continuity of care protections:** Requirements ensuring transitional coverage when providers or facilities leave a network.
- **Insurance identification card transparency:** Requirements for plans to display deductibles, out-of-pocket maximums, and consumer assistance contact information.

The Departments have made slow progress; in December 2025, they issued a proposed Transparency in Coverage rule that would require plans to provide cost-sharing estimates by phone, using the same contact information required on insurance ID cards. *Those changes could be effective as early as January 1, 2027.*

With respect to advanced EOBs, the Departments have acknowledged significant operational challenges and have been testing data-sharing standards. *A proposed advanced EOB rule is expected in March 2026.*

2. The IDR Operations Rule

Under the NSA IDR process, when a provider and health plan fail to agree on payment amounts for out-of-network services, either party may submit the dispute to a “certified IDR entity” to calculate a payment amount. In the years following its release, both plans and providers have raised persistent concerns regarding IDR volume, timelines, and decision consistency.

In November 2023, the Departments issued a proposed IDR Operations Rule to amend the IDR process in a number of ways, including through standardized claim codes, more detailed disclosure requirements, modified claim batching, and revised negotiation timelines. Although admirable in intent, the Departments failed to issue a final rule in the years that followed.

If the Departments issue a final IDR Operations Rule in 2026, *implementation could be seen as early as this year.*

3. Enforcement Discretion Related to Qualified Payment Amount (QPA) Calculations

Under the NSA, the Qualified Payment Amount (QPA) is the benchmark amount used in IDR to value out-of-network payment disputes. It is generally defined as the median in-network rate for a given code in a geographic area. The design of the QPA in federal regulations has been legally contested because it strongly influences how much providers get paid when disputes are unresolved.

Since October 2023, the Departments have exercised enforcement discretion regarding QPA calculations due to ongoing litigation in *Texas Medical Association v. HHS (TMA III)*. (By exercising enforcement discretion, regulators are not strictly enforcing certain requirements if plans and providers act in “good faith” under earlier guidance.) In *TMA III*, a federal court struck down significant parts of the QPA calculation methodology used by federal regulators, creating uncertainty about which rules apply.

On July 30, 2025, the Departments published an FAQ document that extended enforcement discretion through February 1, 2026. In the same document, they indicated that they *do not expect enforcement relief to extend beyond August 1, 2026.*

If enforcement discretion ends in August 2026, NSA stakeholders should expect increased audit activity. The NSA requires the Departments to conduct audits of QPA calculations but, thus far, they have only completed one QPA audit.

Additional guidance is expected in early 2026.

Takeaways for Stakeholders

While major structural changes to the No Surprises Act framework are unlikely in 2026, stakeholders should prepare for:

- Finalization and implementation of pending IDR rules;
- Additional guidance affecting IDR operations; and
- Continued uncertainty tied to litigation-driven enforcement discretion.

Health plans, providers, and IDR entities should monitor regulatory developments closely and assess operational readiness as the Departments move from rulemaking backlog to enforcement and oversight.

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