

Practice Update

SURPRISE! HHS Finalizes the No Surprises Act IDR Operations Rule

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The long-awaited rule is here. On May 28, 2026, the Departments of Labor, Health and Human Services, and the Treasury (collectively, the Departments or Tri-Agency) finalized the Independent Dispute Resolution (IDR) process under the No Surprises Act (NSA) (the Final Rule). The Final Rule represents the most substantial administrative clarification of the NSA to date.

The Final Rule follows several years of significant strain on the IDR system. Since the implementation of the NSA, the volume of disputes has overwhelmed the IDR process, leading to substantial backlogs, delayed determinations, and operational pauses. At the same time, ongoing litigation — particularly involving the Qualified Payment Amount (QPA) methodology, challenged in the Texas Medical Association cases — has created additional uncertainty surrounding reimbursement calculations and enforceability. The Final Rule attempts to shift a process plagued by inefficiencies and backlog to a streamlined IDR operation, and includes the following changes.

Mandatory Coding

One of the most significant operational changes in the Final Rule is the imposition of standardized coding requirements for payors when issuing explanation of benefits documents on claims subject

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to the NSA. Specifically, payors will now be required to use designated Claim Adjustment Reason Codes and Remittance Advice Remark Codes in connection with out-of-network claims eligible for the IDR process. According to the Tri-Agency, this will improve transparency regarding claim status, clarify whether a claim is eligible for NSA protections, and reduce administrative delays.

Open Negotiations Period

The Final Rule also clarifies the process for the 30-day “open negotiations” period that must occur before parties may initiate formal IDR proceedings. Under the rule, the negotiation period begins when a party both submits the open negotiation notice through the federal portal *and* provides notice to the opposing party. This clarification will resolve disputes regarding whether negotiations were properly initiated and whether subsequent IDR filings were timely.

The Tri-Agency also expanded the information required in the open negotiations notices. Parties initiating negotiations must now provide more detailed identifying information concerning the disputed items or services, including claim identifiers and service codes. To date, incomplete notices have contributed to duplicate filings and improper batching practices that burden the IDR process, hinder the open negotiations period, and delay judgments.

Administrative Fee Changes

The rule also establishes a flat administrative fee of \$15 per party per dispute — a steep reduction from the previous \$115 to initiate a dispute. The revised fee structure is intended to support continued operation of the system while better aligning administrative costs with dispute processing demands.

The Final Rule Does Not Resolve the QPA Litigation Problem

Importantly, however, the Final Rule does not resolve the most significant substantive controversy surrounding the NSA: litigation over the QPA methodology and the extent to which arbitrators may rely on the QPA when determining out-of-network payment amounts. Those disputes remain subject to ongoing litigation and continued federal enforcement discretion. While the Final Rule substantially modifies the mechanics of the IDR process, it does not repair the underlying reimbursement framework that continues to drive much of the payor-provider conflict.

For providers, the rule will likely require attention to technical filing compliance and adherence to the timelines imposed by the NSA. Payors, meanwhile, will need to update remittance and claims administration systems to comply with the new coding requirements and procedural obligations.

Overall, the Final Rule represents a meaningful shift toward procedural enforcement, operational consistency, and administrative efficiency within the IDR system.

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