



Surprise Billing: Final Rule Released re QPA and IDR

August 19, 2022

Today the Administration issued a final rule on the surprise billing provisions – related to the use of the Qualifying Payment Amount in the Independent Dispute Resolution process - that were previously included in the interim final rules from last July and October. Notably, the final rule requires the Independent Dispute Resolution (IDR) entity to consider factors other than the Qualifying Payment Amount (QPA) when determining payment – based on the Texas litigation.

This final rule is very narrow in scope because the Departments intend to address comments related to other provisions of the July 2021 and October 2021 interim final rules at a later date.

Additionally, we are still waiting for a proposed rule that we believe will address good faith estimates and advanced explanation of benefits for insured patients.

- Click [here](#) for the press release and [here](#) for the 146-page final rule.
- Click [here](#) for the Fact Sheet which describes some of the important changes from the interim final rules.

According to the Fact Sheet, these final rules specify that certified IDR entities should select the offer that best represents the value of the item or service under dispute after considering the QPA and all permissible information submitted by the parties. This is an important change.

The Fact Sheet also includes new information about the QPA that plans and issuers must share.

- Click [here](#) for the FAQs – largely directed toward health plans, but includes some good information on the calculation of QPAs.
- Click [here](#) for a status update on the IDR process.
- Click [here](#) for a 21-page document entitled “Technical Assistance for Certified Independent Dispute Resolution Entities” released this week. While geared toward IDR entities, it contains information and examples that may be useful to providers in the dispute resolution process, such as how to address batching and bundling claims.

We will have more information after we have an opportunity to review the rule and accompanying documents.

For additional information, please contact our General Counsel Diane Turpin at diane.turpin@shcare.net or 202-578-5444. This information is offered for the general education and knowledge of our clients. It is not offered as legal advice.