

Fifth Circuit Deals Two Surprise Billing Blows to Air Rescue (1)

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reporter

- **Second 5th Circuit decision on whether parties can sue in court**
- **Case will have ramifications on other surprise billing cases**

(Updated with additional context.)

A trio of air ambulance providers lost an appeals court bid to overturn a decision in two surprise medical bill disputes, narrowing the legal path for physicians to challenge alleged malfeasance from health insurers in court.

The consolidated case revolves around two conflicting provisions of the No Surprises Act, which requires doctors and insurers to settle unexpected out-of-network bills via arbitration rather than balance billing the patient.

The US Court of Appeals for the Fifth Circuit's decision accompanies [a separate ruling also issued](#) Thursday in which the same panel of judges upheld a lower court's decision, similarly asserting that surprise billing arbitration disputes may not be addressed through litigation.

The Fifth Circuit sided against air ambulance companies Guardian Flight LLC, Reach Air Medical Services LLC, and Calstar Air Medical Services LLC in the consolidated case challenging [Aetna Health Inc.](#), Kaiser Foundation Health Plan Inc., and arbitrator Medical Evaluators of Texas ASO LLC over what the providers said were misrepresentations during the arbitration process.

Judges Stuart Kyle Duncan, a Donald Trump appointee, Jerry E. Smith, a Ronald Reagan appointee, and Edith Brown Clement, a George H. W. Bush appointee, also reversed the lower court's ruling in determining that MET was protected from litigation under the No Surprises Act.

The insurers artificially lowered a key payment metric known as the qualifying payment amount in order to make its offers look more generous to arbitrators, the providers argued. The insurers countered that the discrepancies did not amount to intentional fraud, and that only the Centers for Medicare and Medicaid Services has the authority to review disputes—not the courts.

The court agreed with the insurers that the differences in the figures “fall short of fraud.”

“Guardian Flight alleged no facts supporting an inference that the misstatement was intentional,” the judges wrote.

The US Court of Appeals for the 11th Circuit is [considering](#) a similar issue in another air ambulance case.

Attorneys for the air ambulance companies did not immediately respond to a request for comment.

The air ambulance providers are represented by Jones Day and Norton Rose Fulbright US LLP. The insurers are represented by Hicks Thomas LLP and Sheppard Mullin Richter & Hampton LLP. Medical Evaluators of Texas is represented by Vethan Law Firm P.C.

The cases are [*Guardian Flight v. Medical Evaluators of Texas ASO LLC*](#), 5th Cir., No. [24-20051](#), opinion issued 6/12/25 and [*Guardian Flight, L.L.C. v. Aetna Health, Inc.*](#), 5th Cir., No. [24-20204](#), opinion filed 6/12/25.