

Providers, Insurers Continue To Highlight IDR Problems, Rule Still Pending

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Provider groups are urging the administration to crack down on insurers who they say are running afoul of the No Surprises Act in various ways, CMS is considering two additional Independent Dispute Resolution entities, and stakeholders continue to await the IDR operations rule, which is still under review at the White House Office of Management and Budget.

First proposed in October 2023, the rule would make changes to claims batching, require insurers to include certain information on claims to help identify eligibility, and more.

Congress is also awaiting the rule. House Ways & Means Chair Jason Smith (R-MO) asked HHS Secretary Robert F. Kennedy Jr. about it during a budget hearing in April. “We’re working as fast as we can to finalize that rule now,” Kennedy said.

The NSA has also been in the headlines in recent weeks with the *New York Times* digging into the independent dispute resolution process in a story focused on Florida plastic surgeon sued by Emblem Health for allegedly manipulating the program to glean higher pay; also in mid-April, a federal court dismissed one of Blue Cross Blue Shield’s case against HaloMD, the prolific users of the IDR, whose owners were the subject of a STAT News expose in March.

And Wednesday (May 13) the Coalition Against Surprise Medical Billing (CASMB), which includes employers, unions and insurers, launched a seven-figure ad campaign urging lawmakers to address bad actors in the IDR space.

“Without meaningful guardrails, oversight, or accountability, the IDR process has so far added more than \$5 billion in excessive costs that employers and consumers ultimately have to pay,” CASMB says. “Some private equity firms have compounded the healthcare affordability crisis by controlling and owning providers that flood the system with disputes, many of which are ineligible while also operating IDR entities that are supposed to independently oversee disputes -- having the proverbial fox guard the hen house,” CASMB adds, linking to a 2025 report from the Private Equity Stakeholder Project.

The campaign, "Judge Fox," is slated to run in the DC area.

Providers Seek Enforcement

Provider groups in a letter led by the American Medical Association are urging the administration beef up its enforcement of the No Surprises Act, arguing that insurers are ignoring key requirements and abusing flexibility.

The letter to HHS, Treasury and Labor cites five issues that providers encounter in the IDR: First, they claim that some insurers are increasing patients' cost-sharing to align with the results of resolution in favor of providers -- "a practice that is clearly in violation of the spirit, if not the language, of the No Surprises Act."

"Alarmingly, in a 2024 study of emergency physicians, 50 percent of respondents report that health plans increased the patient's cost sharing amount after an IDR entity determination," the providers say. "We ask the Departments to immediately step in and prevent health plans from passing costs onto patients in violation of the NSA."

The letter further alleges that insurers are exploiting guidance from June 2025 that allows disputes to be reopened under narrow circumstances by using it as way to withhold payments even though the guidance says pay should proceed.

"This is largely happening without scrutiny of plans that re-open IDR claims without sufficient evidence or reason," the providers claim. The administration should revise the guidance to clarify a narrower scope and prohibit the re-opening of settled IDR determinations without sufficient cause, they say.

Providers also complain of delayed payments, and insurers' failure to include data that could identify whether a claim is eligible for the federal IDR. Physicians further argue that plans' calculations do not reflect market rates -- and more transparency is needed.

"Fortunately, we believe that these issues can be addressed largely with increased enforcement and transparency," the letter said, adding, "We look forward to working with you to address these concerns to ensure that the NSA continues to protect patients from surprise medical bills while preserving the sustainability of independent physician practices."

Providers' request that the tri-agencies in charge of overseeing the NSA step up their game comes amid increased public scrutiny of the independent dispute resolution (IDR) process, including CMS' data showing that most determinations are in favor of providers.

The *New York Times* late April highlighted a recent lawsuit by Emblem alleging a Florida plastic surgeon is manipulating the process to glean payments that are significantly higher than before the No Surprises Act was in effect.

STAT News recently published a detailed piece about the owners of HaloMD, which works with provider clients and is one of a handful of entities that CMS has said is responsible for initiating more than 40% of the disputes.

In April, Halo won a dismissal of a suit brought by Anthem Blue Cross in federal court in California, a result the company claimed as landmark victory and affirmation that the IDR determinations are not subject to judicial review.

Shortly after HaloMD's victory, a Florida court made a similar ruling in favor of Radiology Partners in a suit brought by Aetna.

Those suits are far from the end of the story, according to Katie Keith and Ellen DeGarmo, director of and senior associate at Georgetown Law's O'Neill Institute, respectively. "In addition to monitoring appeals in these cases, we are still awaiting decisions in several other payer lawsuits, including three other cases against HaloMD that were filed in three different states," Keith and Garmo wrote in a blog posted April 16.

Over time, there could be different rulings among appellate courts, and, ultimately, the scope of the No Surprises Act bar on judicial review may be taken up by the Supreme Court, they wrote. The blog also discussed cases where providers sued insurers over payments, noting that the Fifth and Eleventh Circuits already rejected a private right of action. The Second Circuit is set to hear a related case in June.

"These questions could eventually reach the Supreme Court, but the Court has shown little appetite for these cases thus far. In January 2026, the Supreme Court declined to hear Guardian Flight's appeal of a Fifth Circuit decision that found that the air ambulance company could not sue the Health Care Service Corporation over unpaid IDR awards," Keith and DeGarmo write.

Admin Highlights New IDRE, Considering Two More

The administration on May 11 said that recently certified Independent Dispute Resolution entity (IDRE) Dane Street is now available to adjudicate disputes submitted to the federal IDR.

“Expanding the number of available certified IDR entities from 15 to 16 is expected to increase IDR throughput and represents an important step in continuing to improve the Federal IDR process,” the administration said.

The administration is also considering certification of Physio Solutions LLC and Intel Care IPA. Both met the minimum qualification standards for an IDRE, and the five-day period for citizens to petition against approval has expired.

CMS tells *IHP* it does not discuss the status of the applications, so it’s unclear whether anyone opposed certification of either entity, or when a final decision will be announced.

Gateway

The IDR process at some point this year will transition from a single-use web form to a new IDR Gateway, a secure, centralized platform that parties can use to manage the process. Gateway allows users to start and respond to disputes, access dashboards and reports related to their organization, track dispute information, monitor disputes by the phase in the process, and review notifications on dispute activity. -

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