

## Providers/Facilities Prevail in Most Surprise Billing Payment Disputes

A new [report](#) released by three federal agencies in February indicates that health care providers, facilities or air ambulances were the prevailing party in 77% of payment determinations made by Independent Dispute Resolution (IDR) entities. The IDR process was established under the federal No Surprises Act as a way to resolve out-of-network billing disputes between health care providers and insurers, while keeping patients out of the middle. The report was released jointly by the Departments of Health and Human Services, Labor and Treasury.

For the 83,868 payment determinations rendered from Jan. 1 through June 30, 2023, the report indicates that the prevailing payment in 82% of the cases was higher than the “qualifying payment amount” (QPA), which is defined as the median in-network rate. Although the report doesn’t indicate the rationale for the arbiters’ decisions, the data suggests that the IDR arbiters are finding factors other than the QPA important in making their payment determinations.

That the prevailing offer is higher than the QPA in such a large percentage of cases is significant, given the long-standing concern from providers about The Centers for Medicare & Medicaid Services (CMS) emphasis on the QPA. CMS in its rulemaking had originally determined that the QPA should be the single most important factor used by the IDR arbiter. Health care providers have challenged those rules because focusing just on the QPA would advantage insurers, reduce provider networks, and discourage meaningful contract negotiations. The No Surprises Act outlines several criteria an independent arbiter should also use to determine the appropriate payment rate, including the level of training, experience, quality and outcomes of the provider; the market share held by the parties; patient acuity; and teaching status, case mix, and scope of services of the provider.

In addition to covering the results of payment determinations, the report also indicates that 288,810 disputes were initiated through the IDR portal in the first six months of 2023. The top 10 initiating parties represented 78% of all disputes. Many of these were large practice management companies, medical practices, or revenue cycle management companies representing hundreds of individual practices, providers or facilities.

While the Departments of Health and Human Services, Labor and Treasury indicate the IDR entities have greatly scaled up their operations to address high volumes, some parties are still waiting for determinations of whether the dispute is eligible for the IDR process or waiting for the payment determination. The three federal agencies indicate they continue to make technical and operational improvements to the process, and plan to release data on a quarterly basis going forward.

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