No Surprises Act Continues to Prevent More than 1 Million Surprise Bills Per Month, While Provider Networks Grow



A new survey from AHIP and the Blue Cross Blue Shield Association (BCBSA) highlights how the *No Surprises Act* (NSA) continues to protect millions of consumers each year, with health plan provider networks growing despite a continued reliance on the law's arbitration process by some health care providers. During the first nine months of 2023, more than 10 million unique claims from health care facilities, providers, and air ambulance providers were subject to the protections of the federal law, which limits out-of-pocket costs for consumers. The number of those claims disputed by providers or facilities continues to outpace estimates. But data indicates that despite a high volume of claims being submitted to independent dispute resolution (IDR), the law's components appear to be working to protect consumers and resolve payments. Health care providers typically accept the initial payment made by health insurance providers, reflecting confidence in payments based on fair market rates and the law's Qualifying Payment Amount (QPA). For claims where an initial payment is not satisfactory, a substantial percentage of claims are resolved through the law's Open Negotiation process. Finally, despite rhetoric that the NSA is forcing doctors to leave networks, two-thirds of health insurance providers report their provider networks have increased since the NSA became law, with none reporting an overall reduction in participating providers.

The *No Surprises Act* was signed into law on December 27, 2020. Most of the law's provisions took effect at the beginning of 2022, applying to those enrolled in commercial health insurance coverage or group health plans renewing on or after January 1, 2022. Under the law, when anyone covered by private health insurance is treated for emergency services or at an in-network facility by an out-of-network provider, the health care provider or facility, such as a hospital, is prohibited from billing a patient above their in-network cost-sharing amount. The law establishes a process for resolving disagreements on what the health plan will pay the out-of-network provider or facility, culminating in IDR.

An ongoing question for policymakers, lawmakers, health care stakeholders, and consumers was how much the IDR process would be utilized by providers and facilities and whether the large volume of disputes experienced in the early months of implementation would recede as parties began to experience the results of the Federal IDR process. Prior to the law taking effect, the federal agencies responsible for implementation estimated about 17,000 claims would go through the Federal IDR process annually. In reality, between April 15, 2022 and March 31, 2023 disputing parties initiated 334,828 disputes through the Federal IDR portal, nearly fourteen times greater than the initial estimate.[1] By October 2023, when proposing new Federal IDR operations regulations, the government predicted approximately 420,000 initiated disputes for the following year.[2] AHIP and BCBSA estimate there were almost 670,000 claims submitted to IDR between January 1st and September 30, 2023 alone, with no indication of having peaked.

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1 https://www.cms.gov/files/document/federal-idr-processstatus-update-april-2023.pdf
2 https://www.federalregister.gov/documents/2023/11/03/2023-23716/federal-independent-dispute-resolution-operations

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A single dispute, as reported by the Centers for Medicare & Medicaid Services (CMS), could represent a batched dispute of many claims or a group of several claims for a single visit. The Certified IDR Entities must review each claim individually, meaning the volume of claims is even higher than the number of individual disputes, increasing the burden on IDR entities and driving health care costs higher through associated fees. The large number of disputes initiated, including thousands of batched claims and many ineligible submissions, indicates many health care providers who were previously able to balance bill patients may now be utilizing the Federal IDR process, presumably in hope of collecting above-market reimbursement amounts. Should this trend continue, health care costs are likely to unnecessarily increase.

While concern about this trend remains, particularly with the large number of claims in 2023, this survey also examines how plans are expanding networks. Plans responding to the survey reported increasing or maintaining the provider volume of their networks, with no plans reporting a decrease in network size. A key tenant of the NSA was to incentivize providers to join networks in order to limit consumers' exposure to out-of-network costs and protect patients from unexpected bills. As the NSA concludes its sophomore year of enforcement, plans are maintaining or increasing their networks and protections for patients.

The findings of the AHIP-BCBSA survey are important to demonstrate how many consumers have already benefitted from the NSA and to underscore the extent of total claims that could be impacted if the IDR process is not a predictable process with payment amounts that trend towards market rates.

Key Findings

NSA Eligible Claims

During the first three quarters of 2023, there were an estimated 10.1 million NSA-eligible claims, or about 0.7% of all commercial claims processed by health insurance providers. The majority of NSA-eligible claims were resolved through an initial payment, as required by the law. Fewer than a quarter of NSA-eligible claims entered the law's 30-day Open Negotiation process. For those claims that did enter Open Negotiation, 73% were resolved without initiating the IDR process. For almost 80% of NSA-eligible claims resolved without IDR, providers accepted the initial payment offered by health insurance providers (either at the time of initial payment or following Open Negotiation), reflecting that initial payments offered by health insurance providers are deemed reasonable for the overwhelming majority of health care providers.

Table 1: NSA-Eligible Claims (January 1, 2023 – September 30, 2023)

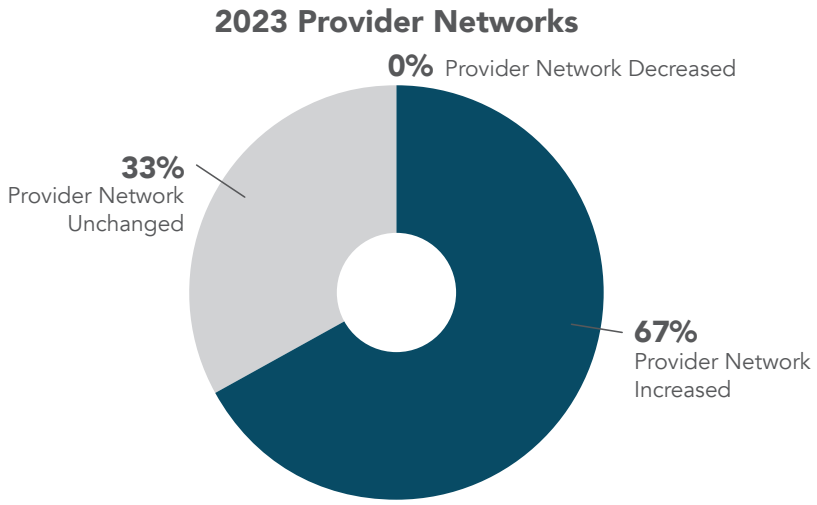
	Survey Results	National Estimate
Number of NSA eligible claims	6,622,423	10,156,222
Number of NSA-eligible claims that entered Open Negotiation	1,605,731	2,462,566
Number of NSA-eligible claims submitted to IDR	435,786	668,326[3]
Number of NSA-eligible claims where the initial payment is accepted by the provider (excluding claims submitted to IDR)	5,234,956	8,028,387

3 A significant increase from the 2022 survey with a national estimate of 275,245 https://www.ahip.org/resources/no-surprises-act-prevents-more-than-9-million-surprise-bills-since-january-2022

Provider Networks

The majority of health insurance providers (67%) indicated that their overall provider networks (the number of participating health care providers) have increased since 2021, following the enactment of the NSA. A third (33%) indicated that their provider networks remained unchanged. No plans reported decreases in provider networks.

Figure 1: Changers in Provider Networks



Methodology

In November 2023, AHIP and BCBSA collectively fielded a nationwide survey to member and non-member health insurance providers with enrollment in the commercial market, including self-funded group health plans, fully-insured large and small group health plans, and individual market coverage (including Qualified Health Plans). The survey was distributed to 80 health insurance providers selling or administering group health plans and Qualified Health Plans. 21 health insurance providers, collectively representing 139 million commercial enrollees or 65% of the total commercial market, responded to the survey via an online tool. The survey asked health insurance plans to provide their current commercial enrollment and the number of commercial claims they have incurred and paid in the January-September of 2023. Of these claims, the survey asked for the number of claims that were NSA-eligible and the number of claims submitted to IDR. Note that the survey counted each service or procedure as a separate claim. Thus, a single visit may result in multiple claims. In addition, the survey asked about the changes in provider networks since 2021, after the enactment of the NSA.

To arrive at the national estimate of the number of NSA-eligible claims, claims submitted to IDR and IDR batches received for claims that have been processed at the time of the survey, the study first calculated these measures per enrollee. It then multiplied these measures by the 2022 Census estimate of the total number of commercial enrollees (213 million) to arrive at the final estimate.

ABOUT AHIP

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit AHIP.org to learn how working together, we are Guiding Greater Health.

ABOUT BCBSA

The Blue Cross Blue Shield Association is a national federation of 33 independent, community-based and locally operated Blue Cross and Blue Shield companies that collectively provide health care coverage for one in three Americans.

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