

NSA Implementation Issues Are Failing Patients & Providers

Manipulating the QPA: How Insurer Abuse Threatens Patients and Providers

Background

The federal *No Surprises Act* (NSA) was passed in 2020 with strong provider support to protect patients from surprise medical bills, preserve access to care, **and** ensure good faith contracting between insurers and providers. In support of this process, Congress created the Qualifying Payment Amount (QPA), based on the rate being paid in the health care marketplace. Congress also tied the QPA to inflation to ensure providers would receive fair and adequate reimbursement for their services.



45 CFR 149.140
December 2021

QPA Defined

The QPA for a given item or service is generally the **median contracted rate** on January 31, 2019 for the same or similar item or service, increased for inflation

As detailed in AFHC [Impact Alerts](#), however, some corporate health insurers are systematically manipulating QPAs so they are anything but fair and adequate – with the following results:

- **Insurers are Lowballing the QPA:** According to FAIR Health data, 3 out of every 4 QPAs set by insurers were *below* the median contracted rate – despite clear statutory and regulatory guidance to the contrary. As a result, providers have been compelled to file claims in the Independent Dispute Resolution (IDR) process, where arbiters have sided with providers in the [vast majority of cases](#).
- **Lowballed QPAs Violate the NSA:** According to [AFHC's nationwide surveys](#), insurers are imposing QPAs at or below Medicare rates on a stunning 94% of providers. In fact, [Health Affairs](#) recently reported insurers frequently peg initial payments below Medicare, driving requests for IDR. Since the QPA is required to reflect the inflation-adjusted median contracted rate – *not the Medicare rate* – payments set at or below Medicare could violate the NSA and threaten patient access to care.

Setting the Record Straight

Some insurers may push back on the above, claiming that providers are filing “frivolous” IDR claims to contest QPAs. However, providers are winning the vast majority of these disputes – proof that insurers are wrong. After all, if claims against lowballed QPAs were “frivolous,” providers would not be winning them!

Congress Must Act to Ensure Compliance with the *No Surprises Act*

Members of Congress are deeply concerned about the impact Medicare cuts have on patients and providers. While Congress works on the Physician Fee Schedule, it's essential that corporate health insurers be made to stop their abuse and once again make fair and stable payments. ***Congress, End Insurer Abuse!***