

Insurer Abuse Is Endangering Patients and Providers

Why Delay Accurate QPAs?

As detailed in prior [AFHC Impact Alerts](#), corporate health insurers are manipulating the federal *No Surprises Act* (NSA) to reap billions in additional profits – often to the detriment of patients. As detailed by [The New York Times](#), insurers are pulling off what is becoming known as a **“Shared Savings” Kickback Scheme**: they are [slashing](#) payments for care, [terminating](#) provider contracts, and engineering a [sharp rise](#) in out-of-network care. Insurers are then leveraging an artificially deflated Qualifying Payment Amount (QPA) to justify their unwillingness to negotiate in good faith with medical practices. As opposed to contracting with providers at a reasonable rate, insurers are pushing them out-of-network and then paying the below market QPA – all so they can profit from the out-of-network “shared savings fees” exposed by the *Times*!

The Administration is Enabling the “Shared Savings” Kickback Scheme

The “tri-Departments” of Health & Human Services, Labor, and the Treasury have the authority to stop these artificially low QPA calculations by complying with the law. The U.S. District Court for the Eastern District of Texas, in its TMA-III ruling, stated that insurers cannot use “ghost rates” when calculating QPAs and must calculate QPAs based on the rates of providers “in the same or similar specialty.” **By delaying enforcement of the 2023 ruling until November 2024, the Departments are enabling insurers’ to continue using illegal QPAs in order to low-ball providers and further the shared savings kickback scheme.**

Timeline of Events – and Inaction

- [July 1, 2021](#): [Interim Final Rule](#) released finalizing QPA methodology for payers
- [January 1, 2022](#): Effective date of Qualifying Payment Amount (QPA) [methodology](#)
- [August 24, 2023](#): Texas Medical Association vs. Health & Human Services (TMA-III) [ruling](#)
- [October 6, 2023](#): Department of Labor issues [FAQs](#) appeal and enforcement per TMA-III
- [January 12, 2024](#): Departments [concede](#) to TMA-III ruling on “same or similar” rates
- [May 1, 2024](#): Updated [FAQs](#) issued delaying compliance **until November 2024**

Until Insurers Are Made to Obey the Law, They Will Continue to Flout It

It took insurers just six months (from July 1, 2021 to January 1, 2022) to develop the systems needed to calculate QPAs. And yet, the Departments feel that insurers require nearly *a full year* (January 12, 2024 to November 2024) to adopt the “same or similar” standard, which only entails a system edit. With this ‘pass’ from the Departments, corporate health insurers have no incentive to calculate appropriate QPAs.

Allowing Delay Means Allowing the “Shared Savings” Kickback Scheme.

Congress, Call on the Administration to Stop the “Shared Savings” Rebate Scam!