

NSA Implementation Issues Are Failing Patients & Providers

Payers Are Violating the Law: Passing Surprise Costs on to Patients

Background

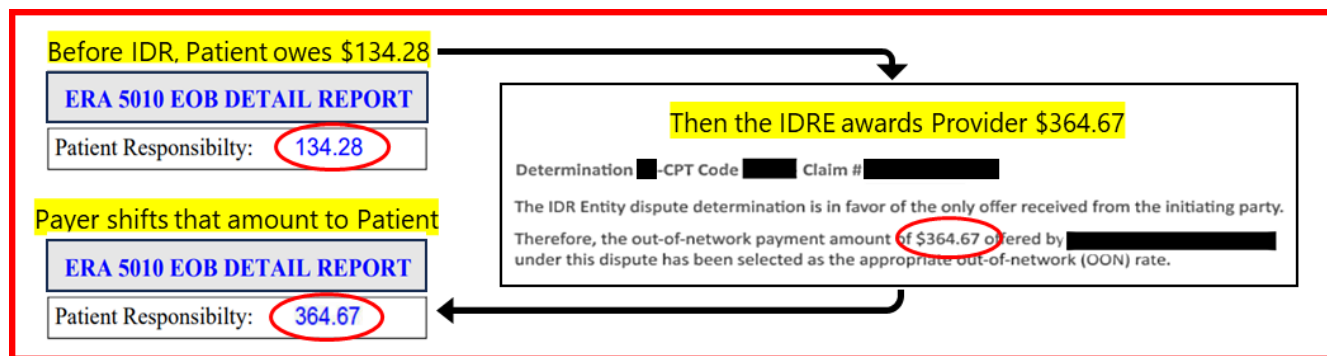
Central to the federal *No Surprises Act* (NSA) is its protection of patients from surprise medical bills. Towards that end, lawmakers and staff worked hard to codify this protection while also preserving access to in-network care and supporting good-faith contracting between payers and providers. Unfortunately, some major payers are undermining these important safeguards. Previous *Impact Alerts* have called attention to payers that are not in compliance with NSA provisions on in-network care, the Independent Dispute Resolution (IDR) process, and mechanisms for resolution. This Alert highlights a deeply troubling development: some payers are illegally imposing surprise costs on patients in direct violation of the NSA.

The NSA's Safeguards

In order to spare patients from being caught in the middle of payer-provider disputes, Congress established the Recognized Amount as the basis for out-of-network cost-sharing. Typically set at the Qualifying Payment Amount (QPA), the Recognized Amount is intended to make patient cost-sharing predictable by shielding it from any changes resulting from Independent Dispute Resolution Entity (IDRE) determinations. To accomplish this, the NSA made payers solely responsible for any amount IDREs determine is owed to providers. **Even when patients have plans with unmet deductibles or coinsurance, payers are NEVER allowed to increase patient costs following IDR.** It has recently come to light, however, that some payers are doing exactly that.

How Payers Are Illegally Burdening Patients with Surprise Costs

Despite the clear protections Congress wrote into the NSA, some payers are burdening patients with the dollar amount of IDRE determinations. As illustrated by the actual payer and IDRE documentation below, payers are making IDR amounts the patient's responsibility. Specifically, payers are adding these amounts to their claims transmittals, causing patients' cost responsibility to increase – even though the IDR awards are amounts that *payers* owe providers. This means that, rather than live up to their responsibility, payers are illegally converting contested amounts into unwarranted, unfair, and *surprise* out-of-pocket expenses on patients.



(Detailed review of this and additional supporting documentation is available upon request.)