LAW360

Portfolio Media. Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

No Surprises Act's New Rule Hands Win To Providers

By **Yeji Jesse Lee**

Law360 (June 2, 2026, 9:12 PM EDT) -- A long-awaited update to the No Surprises Act includes a slew of technical changes to dispute resolutions that attorneys say add up to a win for providers seeking to navigate a complex process.

The final rule announced Thursday updates the No Surprises Act's arbitration system — the framework through which providers and payors can dispute out-of-network reimbursement rates — by slashing the administrative fee from $115 to $15.

It also increases the number of claims that can be batched together in a single dispute and rolls out a new centralized platform for disputes, among other changes.

Regulators said the updates, which have been in the works since 2023, are designed to streamline communication, clarify timelines and reduce the number of ineligible claims in the system.

Attorneys representing both providers and payors through the system say that it's a solid win for providers, even as many predicted it may lead to more disputes in an arbitration system that has been inundated by a massive number of disputes over the years.

Carrie Douglas, a healthcare partner at Bracewell LLP, said that out of a score of 10 — 10 being everything that providers could want — she gives the final rule a 7.5.

"Our reaction [at the firm] was a big happy dance," she said.

Taken together, the changes help address a lot of pain points that providers and their attorneys have been flagging to regulators for years.

Douglas said that with clarity around information and timelines, a more efficient way to determine ineligible claims, and a reduced fee that makes it easier for smaller players to get involved, her job representing providers is going to be a lot more straightforward.

"The agencies have really gotten together and been very thoughtful about how to make the process easier and more accessible," she said.

Since 2022, the No Surprises Act has helped protect patients from unforeseen medical bills resulting from certain types of out-of-network care.

With NSA protections, a patient who goes to a hospital and is treated by an out-of-network doctor, for instance, would not be automatically on the hook for a "surprise" bill.

Under NSA requirements, payment would have to be settled between the provider and the payor. If the two can't agree, they enter open negotiations and then an arbitration system, called Independent Dispute Resolution or IDR, that allows both sides to hash out the bill with a certified arbitrator.

While the law has been a boon for patients, providers and payors alike have raised plenty of criticisms of the arbitration system over the years.

Providers have long said that the system lacks transparency and structure, and complained that some payors neglect to pay awards after losing disputes.

Payors complain that providers and third-party vendors are flooding the system with ineligible claims, taking advantage of a framework that was never meant to handle so many disputes.

Nicole Allocca, an attorney at Buchanan Ingersoll & Rooney PC, said that the final rule feels like "a tacit acknowledgment that the system's been overwhelmed."

"There needed to be a change and I think this is the administration's response to trying to address those changes," she said. "While they may not solve everything, I think it's a good start."

Early estimates predicted that the IDR system would oversee around 17,000 disputes annually. That has turned out to be well off target.

Around 3.4 million disputes were submitted into the IDR process between 2022 and June 2025, according to data from the Centers for Medicare & Medicaid Services. And the volume has only grown over time, according to an analysis by Georgetown University's Center on Health Insurance Reforms.

The first half of 2025 saw 1.2 million new disputes into the system, more than double the 590,000 disputes during the same period in 2024, according to CHIR.

Dae Lee, an attorney at Buchanan, said the rule will help remove certain hurdles in bringing claims through the IDR process.That's likely going to increase the volume of disputes.

But the batching change and others will also make for a more efficient process for processing eligible claims.

"It's a positive movement towards a … smoother, streamlined process," he said.

Some experts say the final rule is far from being a fix-all to what they see as a flawed system.

Jack Hoadley, a research professor emeritus in the Health Policy Institute of Georgetown University's McCourt School of Public Policy, said it's important to keep in mind that the rule was first proposed in 2023, during the early days of NSA enactment.

It was always intended to be a technical update with a number of improvements focused on improving IDR case processing, he said.

Under the Administrative Procedure Act, the final draft could not diverge too far from the initial proposal, even as other problems arose over the years.

"It doesn't really address some of the broader issues of whether the IDR system is working correctly in terms of the kinds of outcomes … but it is trying to address some of the process side issues," Hoadley said.

Kennah Watts, a research fellow at CHIR, said that the NSA was in a much different place three years ago.

"What we've seen now since 2023, with the high volumes and the higher award amounts, that just wasn't yet known when the rule was drafted," she said.

Helaine Fingold, an attorney at Epstein Becker Green who advises both providers and payors on the No Surprises Act, said the changes will put more structure and predictability into NSA arbitrations.

Fingold, who was at CMS for around 15 years before joining the firm, predicted that the changes will force payors to be more organized and responsive to disputes.

While that will mean more work for payors, Fingold said, it's not all bad news.

"The goal is to increase the robustness of the information that is at the front end to help people clarify whether the dispute should even be in the IDR process," she said. That will help weed out ineligible claims earlier, and ultimately benefit payors.

Not everyone is so bullish. Alex Lucas, a partner at Crowell & Moring LLP who works with payors in the healthcare space, said she was surprised by what she described as a lack of effort by regulators to "course correct what has been wrong with the process."

At almost every point where the federal government could have addressed the volume of IDR claims, "the rules cut in the way of actually incentivizing that volume, lowering the barriers, and making this an efficient transactional process to providers who are pursuing it," she said.

"It's making it very accessible and an easy way to pursue this process for essentially every healthcare claim that they have on an out-of-network basis, which is going to do nothing to kind of help the problems that we've seen," Lucas added.

Adam Schramek, a litigation partner at Norton Rose Fulbright, said the rule is far from a slam dunk for providers with complaints about unpaid arbitration awards.

"There is no consequence for not complying," said Schramek, who is representing providers who contend payors that lost in arbitration aren't paying up.

"It's kind of like, 'Yeah, this is a great rule. In a perfect world, this is how it would work.' But if you don't put any enforcement teeth into it, is it really going to change anything?"

Other attorneys and policy experts told Law360 that they expected the changes — lower fees, greater claim batching — will lead to an uptick in disputes within the IDR system, even if the level of impact is

far from clear.

But the system will also be more transparent, Bracewell's Douglas said, which will help weed out ineligible claims.

Greater clarity around open negotiations will also help keep many claims from clogging up the IDR process, she said. "A lot of the gray is going to be gone and so there will be an uptick, but there will also be less of the claims that shouldn't have been in there to begin with."

Douglas said she hopes that at least 20% of the disputes she works on that would have otherwise gone into the IDR process due to procedural and communication issues will now be solved through open negotiations instead.

"These [updates] sound very little and ticky-tacky almost," but they add up, she said.

Loren Adler, a fellow and associate director at the Brookings Institution's Center on Health Policy, also said that he expects the final rule to lead to more claims in arbitration.

The new rule will reduce the friction in the system, he said, and should make it easier for more claims to go through the process and for smaller players to get involved.

In the long run, Adler expects the volume of disputes to taper as providers and payors get a better sense of how arbitrators will decide.

"At some point, you have enough prior experience, you know what the decision is going to be, and at that point it is just lighting money on fire and [the insurer and provider are] better off settling that outside of arbitration," he said.

--Additional reporting by Theresa Schliep. Editing by Bruce Goldman.
