



Memorandum Regarding Continuing Surprise Billing Protections for Consumers

Date: February 28, 2022

On February 23, 2022, the United States District Court for the Eastern District of Texas, in the case of *Texas Medical Ass'n, et al. v. United States Department of Health and Human Services, et al.*, Case No. 6:21-cv-425 (E.D. Tex.), invalidated portions of an interim final rule, Requirements Related to Surprise Billing; Part II, 86 Fed. Reg. 55,980 (Oct. 7, 2021) (the “Rule”), issued by the Departments of Health and Human Services, Labor, and the Treasury (the “Departments”) governing aspects of the federal independent dispute resolution (IDR) process under the No Surprises Act.

This court’s order *did not* affect any of the Departments’ other rulemaking under the No Surprises Act. **Thus, consumers continue to be protected from surprise bills for out-of-network emergency services, out-of-network air ambulance services, and certain out-of-network services received at in-network facilities.** The patient-provider dispute resolution process for uninsured and self-pay consumers to dispute bills that exceed a provider’s or facility’s good faith estimate by \$400 or more also remains available and unchanged by the court’s order. To learn more about these protections, visit www.cms.gov/nosurprises.

The Departments are reviewing the court’s decision and considering next steps. This announcement serves as a notification to health care providers, emergency facilities, providers of air ambulance services, group health plans, health insurance issuers, Federal Employees Health Benefits (FEHB) Carriers (“Disputing Parties”), and certified IDR entities of steps the Departments are taking to conform to the court’s order. Specifically, the Departments will:

- Effective immediately, withdraw guidance documents that are based on, or that refer to, the portions of the Rule that the court invalidated. Once these documents have been updated to conform with the court’s order, we will promptly repost the updated documents.
- Provide training on the revised guidance for certified IDR entities and Disputing Parties. This training will be offered through webinars and roundtable discussions, and will occur after the above-referenced documents are updated.
- Open the IDR process for submissions through the IDR Portal. For disputes for which the open negotiation period has expired, the Departments will permit submission of a notice of initiation of the IDR process within 15 business days following the opening of the IDR Portal.

Consumers, providers, facilities, plans, issuers, and FEHB Carriers may direct questions about rights and protections under the No Surprises Act to the No Surprises Help Desk at 1-800-985-3059.