



ASSOCIATION OF AIR MEDICAL SERVICES

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AAMS Positions Related to No Surprises Act Implementation: QPA Is Flawed and Should Not Determine IDR Outcomes

On September 30, 2021, the US Departments of Health and Human Services (HHS), Treasury and Labor, and the Office of Personnel Management issued an Interim Final Rule with comment (IFR) entitled [Requirements Related to Surprise Billing; Part II](#).

AAMS worked closely with Congress on legislative language for the No Surprises Act (NSA) that protects patients from balance billing and establishes a fair and transparent independent dispute resolution (IDR) process for resolving payment disputes. The NSA states that IDR entities should consider the qualified payment amount (QPA) calculated by insurers as one of many relevant factors when determining the out-of-network rate payable to air ambulance providers. AAMS previously shared concerns with the QPA methodology and provided recommendations on how to improve the QPA to ensure fair and reasonable payments. Today, we express concern with the IDR process and the approach the Departments have taken in weighing the QPA in final payment determinations. The NSA does not say that the QPA is the presumptive out-of-network rate or that it should receive greater weight than any other factor under consideration.

Notwithstanding that legislative language, **the IFR distorts the statutory dispute resolution process in favor of insurers by directing IDR entities to presume that the QPA is the appropriate out-of-network rate and putting a heavy burden on air ambulance providers to prove otherwise.**

The IFR process is hardly independent; it dictates outcomes in favor of insurers absent exceptional showings by air ambulance providers. It will generate a financial windfall for insurers, reduce payments for air medical transport, and ultimately limit access to critical air medical transport resources (especially in rural communities). Those consequences will be devastating for the patients who rely on air ambulance services.

The healthcare system, especially the emergency healthcare system, is already strained to the point of breaking after serving on the front lines of the COVID-19 pandemic for almost 2 years, and cannot survive further reductions in financial resources. In contrast, insurers enjoyed record profits during the pandemic.

AAMS continues to advocate for changes to the methodology for determining the QPA, a process which also heavily favors insurers, fails to recognize the differences in negotiating leverage among providers, and ultimately drives the QPA far below what we believe to be a fair market rate. The combination of a flawed methodology and a reliance on the QPA as the determinate factor in the IDR process will cause irrevocable harm to the sustainability of emergency air ambulance services and the larger healthcare community in the United States. This was not the intent of Congress when passing the No Surprises Act.

AAMS joins the healthcare community in opposition to the IFR and asks that your office request that the Administration finalize a rule that maintains a level playing field for all parties in dispute resolution, consistent with congressional intent.