EDPMA 25 YEARS

Data Analysis

No Surprises Act Independent Dispute Resolution Effectiveness

The Emergency Department Practice Management Association (EDPMA) is a trade association focused on the sustainable delivery of high-quality, cost-effective patient care in emergency departments. Our members deliver or directly support health care for approximately half of the 146 million patients that annually visit U.S. emergency departments.

The Study

EDPMA surveyed its membership to report on issues related to the implementation of the No Surprises Act (NSA) and its Independent Dispute Resolution (IDR) process since its enactment on January 1, 2022. This data documents our members' experiences with the IDR processs and represents a high-level summary of initial findings; additional details are forthcoming.

The Numbers

EDPMA's respondents represented over half of EDPMA's annual emergency department patients.
This accounts for at least one-fourth of all ED visits in the United States.
Respondents filed 220,000+ IDR claims.
Date range: January – December 2022
Antitrust Safe Harbor status maintained[1]

The Findings

91% Of Filed Claims Remain Open and Unadjudicated

Respondents reported almost 200,000 outstanding claims. Payers ignoring claims in the open negotiation period contribute to the significant volume of IDR claims.[2]

95.6% of Outstanding Claims Are 5+ Months Old From 127 Health Plans

If the current NSA implementation goes unchecked, this model will cripple those who staff emergency departments, risking patients' access to quality emergency care. These emergency departments often serve rural and underrepresented communities. Our study reveals outstanding claims by date range:

< 30 days:	0.1%	91-120 days:	0.6%
30-60 days:	0.5%	121-150 days:	44.2%
61-90 days:	3.2%	>151 days:	51.4%

Payers Are Not Participating In 30-Day Open Negotiation Period And IDR Process As Expected By Statute

68% of filed IDR claims did NOT receive replies from health plans during the 30-day open negotiation period. Respondents further reported that 52% of payers did not acknowledge an IDR claim had been filed, and that 75% of payers who actually responded in the IDR process made NO actionable offers.

[1] Redacted data must be at least 3 months old; at least 5 data contributors per published dataset; no group contributing more than 25% of a data set; raw data only reviewed by a third-party independent consultant.
[2] https://www.cms.gov/files/document/initial-report-idr-april-15-september-30-2022.pdf

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Rapid and Effective Enforcement Is Not Happening
Physician groups are filing complaints with CMS and CCIIO and issuing demand letters to health plans. Yet despite these efforts, emergency physicians continue to experience a pro-payer process. Respondents reported that CMS responded to about 14% of their complaints.

87% of Payers Did Not Pay In Accordance with the IDR Entity Decision
Payers' blatant disregard of the No Surprises Act's intent and CMS issued guidance undermines the law and guts fair emergency physician reimbursement that underpins emergency care in America. Of the survey respondents, 60% quantified the percentage of payments won in IDR but NOT paid within the prescribed 30 days. Of these, 1/3 reported 100% noncompliance by health plans; 1/3 reported noncompliance from 89% to 98% of the time; and 1/3 reported noncompliance averaging 37% of the time.

The Solutions

To ensure a sustainable healthcare safety net, emergency physicians must be fairly compensated in a timely manner for services already delivered, especially if those services are required under the federal EMTALA law, which provides both a guaranteed network for health plans and a safety net for patients.

Implement the Law as Designed

The Administration should not alter the law Congress passed, should ensure that all parties have fair and appropriate access to the provisions contained in the law, and should enforce compliance with the law by all parties.

Congressional Involvement

Congress should ensure that the bipartisan No Surprises Act not only keeps patients out of the middle of payment disputes but is implemented as intended. This includes aligned implementation policies for health plans and providers, efficient and cost-effective dispute resolution, appropriate transparency, and effective enforcement processes. Congress' continued assistance and involvement is key to achieving the agreed-upon goals of this landmark legislation, while also preventing the NSA from becoming a landmark failure due to its undermining the viability of emergency medicine physician groups—the heart of our national emergency safety net system.

Rapid and Effective Enforcement

The Tri-Departments must uphold the NSA statute and ensure that ALL parties fully participate in the IDR process with a common spirit of fair and timely resolution of disputed claims. Payers who refuse to comply with the IDR process or fail to pay as directed by the IDR entity should be subject to penalties and fees.

EMTALA Must Now Be Funded

Since 1987, the federal law EMTALA mandates that emergency physicians treat all patients regardless of their ability to pay. This requirement is significant and applies to almost all emergency care provided in US hospitals. However beneficial, EMTALA was never funded. And, the No Surprises Act is causing commercial reimbursement to decrease, upsetting the current equilibrium. Now, EMTALA-required care, stand-by costs, uninsured care, and underinsured care have no offset in a system that requires care for all patients. We must find a way to ensure that the U.S. emergency care system is sustainable and that emergency medicine physicians can deliver much-needed care. Our nation's healthcare safety net hangs in the balance, and needs solutions.

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