



RLI Power Hour

Don't Be Surprised by the No Surprises Act: Challenges with How it was Enacted in the Final Rule

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Chair- Commission on Economics ,
American College of Radiology

February 16, 2023

Disclosures

- I affirm that my current COI disclosure has been accurately reported to the ACR
- I have no disclosures relevant to this presentation
- Outside Activities:
 - Board Member and Finance Chair Hackensack Meridian Health Partners
 - Chief Medical Officer- Neutigers
 - Consultant- VoxelCloud, Guidepoint, AlphaSights

Challenges with Implementation of the No Surprises ACT

- **Before the Independent Dispute Resolution (IDR)**
- **During the Independent Dispute Resolution**
- **After the Independent Dispute Resolution**
- **In-network Challenges**

Before the IDR

- Eligibility
- Cost
- Wait Times

Cost

The screenshot shows the top portion of the American College of Radiology (ACR) website. At the top left is the ACR logo. To the right are navigation links: "For Patients", "Media Center", "Contact Us", and "About ACR". Below these are icons and links for "Cart", "Catalog", "Donate", "Join", "Renew", and "ACR Jobs". A search bar with the placeholder text "Enter your search" and a magnifying glass icon is positioned below the navigation. A horizontal menu contains several categories: "Clinical Quality Resources", "Advocacy and Economics" (which is underlined), "Lifelong Learning and CME", "Member Resources", "Practice Management, Quality, Informatics", "Research", and "Log In". Below the menu is a breadcrumb trail: "Home / Advocacy and Economics / Advocacy News / Advocacy In Action eNews / In the Jan. 14, 2023 Issue / ACR Working with Allies to Fight Surprise Billing Independent Dispute Resolution Fee Increase".

January 13, 2023

ACR Working with Allies to Fight Surprise Billing Independent Dispute Resolution Fee Increase

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The American College of Radiology® (ACR®) is fighting a 600% fee increase to file a No Surprises Act (NSA) Independent Dispute Resolution (IDR) claim. The NSA is a law passed in 2020 to protect patients from surprise medical bills. The NSA includes the IDR process between providers and insurers to dispute contested payments, with no monetary impact on the patient.

Wait Times

Initial Report on the
Independent Dispute Resolution (IDR) Process
April 15 – September 30, 2022



During the IDR

- QPA calculation
- QPA Primacy

QPA Calculation

- Ghost Rates
- Physician of different Specialty
- May exclude Risk sharing and incentive payments
- Self-insured plan data can be used

During the IDR

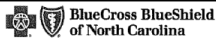
- QPA calculation
 - Audit
- QPA Primacy
 - TMA 2- further delay of disputes after 2/6/23

After the IDR

- Payments not coming on time or in full

In-Network Contracts

- Difficult to get parties to the table
- Contracts being cancelled



November 5, 2021

Re: Necessity to amend rate agreement, response needed before November 21, 2021.

Dear Provider:

[Redacted] is likely aware of the passage of the federal "No Surprises Act" in December of 2020, with an impending effective date of January 1, 2021. Under this law, payments from health plans to out-of-network providers in many circumstances will be set at the "Qualifying Payment Amount" (QPA) which is generally calculated at the median in-network contracted rate for the same or similar specialty within the applicable geographic area. The law applies with respect to out-of-network emergency services, out-of-network professional services at a visit to an in-network facility, and air ambulance services. It applies to our commercial networks (non-Medicare Advantage, non-Medicaid). The QPA paid by health plan to the out-of-network provider constitutes payment in full unless certain limited exceptions apply for a given QPA. These exceptions include express prior patient disclosure and consent, or successful challenge in arbitration.

This new federal law allows a significant change to Blue Cross and Blue Shield of North Carolina's contracting approach with emergency service providers, hospital-based providers, and air ambulance services. Where previous state law could result in an obligation to pay at full charges if no contract is in place, the new law sets reasonable limits on payment at the median in-network rate. Where Blue Cross NC may have previously contracted at what we deemed an inflated rate that is at least somewhat lower than charges in order to avoid paying at full charge, we are now able to seek to contract at a rate more in line with what we consider to be a reasonable, market rate.

We have identified [Redacted] as one of our outlier in-network providers with respect to rates. While the exact, final QPAs are not yet available pending upcoming finalization of the Rules to the No Surprises Act, the Interim Final Rules provide enough clarity to warrant a significant reduction in your contracted rate with Blue Cross NC. If we are unable to establish in-network rates more in line with a reasonable, market rate, our plan is to terminate agreements where the resulting out-of-network QPA would reduce medical expenses to the benefit of our customers' overall preminums.

Our ask of you at this point is as follows. We are seeking an immediate reduction in rates under our commercial agreement, as in interim step to the January 1, 2022 effective date of the No Surprises Act. This interim reduction will buy us breathing room to negotiate the final rates in light of the QPA amounts established in accordance with the upcoming Rules. With the interim reduction in place, we will not need to quickly terminate outlier contracts as a means of avoiding

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5:58 AM

BlueCross BlueShield of Tennessee

Direct Message

View Online



A MESSAGE FROM
Robin Young

We're taking action to negotiate lower prices with providers

Recently I wrote to you about the ways we can address your and your employees' need for affordability. I shared that one powerful tool to deliver savings is our provider networks, and I wanted to give you an update on the actions we are taking to keep costs down.

In July, we offered new contracts to several providers who are being paid much higher rates than their peers. These providers practice at, but aren't directly employed by, hospitals that participate in our network – think emergency physicians, anesthesiologists, radiologists, and others. We are asking these providers to accept fair market rates that bring them in line with similar providers in our networks.

Our new contract offers would deliver an estimated \$65 million in annual savings, which will directly lower your medical costs for your members and help us offset premium increases. (As we've shared, we set premiums each year based on what we expect to pay for the medical services our members need.)

And most importantly, because these providers work in hospitals that do belong to our networks, members won't have to seek care elsewhere, and they won't face higher costs.

You may be wondering how we got here.

Over the years, providers in these specialties have often threatened to end their contracts with us and then balance bill our members to boost their profits. Receiving an out-of-network charge for a visit to an in-network hospital has been one of the most confusing and frustrating experiences for our members. So to protect our members, we have historically responded to balance billing threats by agreeing to higher rates than we wanted to.

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Sh. Blister



James Reedy
Vice President
Network Management

Sent Via Email

July 22, 2022

[Redacted]
[Redacted]
[Redacted]
[Redacted]

RE: [Redacted] Termination of Participation with Cigna – [Redacted]

Dear [Redacted]:

Cigna appreciates the services that [Redacted] has provided to its members. Following the passing of the No Surprises Act, Cigna evaluated contracts for services associated with this Act and is bringing them in line with current market compensation for similar services. Due to the financial challenges impacting our customers and the healthcare environment, Cigna is unable to move forward with the present contract in effect between Cigna and [Redacted].

Enclosed is a new agreement effective September 15th, 2022. Please execute and return via email to johnette.hodge@cigna.com before August 1st, 2022. If [Redacted] wishes not to execute the agreement, this letter will serve as notice in accordance with the terms of the current Agreement that Cigna HealthCare of Tennessee, Inc. ("Cigna") is terminating the Provider Group Agreement between [Redacted] and Cigna (the "Agreement"). The termination of the Agreement will be effective October 1st, 2022 if the new agreement is not signed.

If you have any questions regarding this matter please contact Johnette Hodge at johnette.hodge@cigna.com

Sincerely,

James Reedy
Vice President

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Thank You!

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