

# No Surprises Act Prevents More than 9 Million Surprise Bills Since January 2022

PROVIDERS ROUTINELY USE ARBITRATION AS NUMBER OF DISPUTES FAR EXCEEDS EARLY ESTIMATES

**A new survey from AHIP and the Blue Cross Blue Shield Association (BCBSA) underscores the impact of the No Surprises Act (NSA) in protecting consumers from surprise medical bills and highlights the excessive use of arbitration by health care providers.** More than 9 million claims from health care facilities and providers were subject to the protections of the law, which limit out-of-pocket costs for consumers. The number of those claims disputed by providers or facilities has far exceeded the federal government's initial prediction.

The No Surprises Act was signed into law on December 27, 2020. Most of the law's provisions took effect at the beginning of 2022, applying to those enrolled in commercial health insurance coverage or group health plans renewing on or after January 1, 2022. Under the law, when anyone covered by private health insurance is treated for emergency services or at an in-network facility by an out-of-network provider, the health care provider or facility, such as a hospital, is prohibited from billing a patient above their in-network cost-sharing amount. The law establishes a process for resolving disagreements on what the health plan will pay the out-of-network provider or facility, culminating in independent dispute resolution (IDR).

A key question for policymakers, lawmakers, health care stakeholders, and consumers leading to this first year of implementation was how much the IDR process would be utilized by providers and facilities. In October 2021, when establishing the first rules for the Federal IDR process, the agencies overseeing the process predicted approximately 17,000 disputes initiated each year. The government recently announced more than 90,000 disputes had been initiated by September 30, 2022.<sup>1</sup> AHIP and BCBSA estimate the number of disputed out-of-network claims submitted to IDR was 275,000 across those 90,000 disputes, indicating substantial use of batching and a result of many providers sending dozens of claims at once to IDR, causing significant backlogs to the system.

A single dispute as reported by CMS could represent a batched dispute of many claims or a group of several claims for a single visit. The Certified IDR Entities must review each claim individually, meaning a high volume of claims across many disputes increases the burden on IDR entities and drives higher health care costs due to associated fees. The large number of disputes initiated, including thousands of batched claims and many found to be ineligible, indicates many health care providers who were previously able to balance bill patients may now be utilizing the Federal IDR Process to collect above-market reimbursement amounts. Should this trend continue, health care costs could unnecessarily increase.

The findings of the AHIP-BCBSA survey are important to demonstrate how many consumers have already benefitted from the NSA and to underscore the extent of total claims that could be impacted if the IDR process is not a predictable process with payment amounts that trend towards market rates.

<sup>1</sup> [www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/CY2023-Fee-Guidance-Federal-Independent-Dispute-Resolution-Process-NSA.pdf](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/CY2023-Fee-Guidance-Federal-Independent-Dispute-Resolution-Process-NSA.pdf)

# Key Findings

During the first three quarters of 2022, there were an estimated 9 million NSA eligible claims, or about 0.5% of all commercial claims. Of these, 275,000 claims were submitted to IDR for dispute resolution. Health plans have received a total of 110,000 IDR batches.

	SURVEY RESULTS	NATIONAL ESTIMATE
Number of NSA Eligible Claims	5,373,224	9,367,031
Number of Claims Submitted to IDR	157,889	275,245
Number of IDR Batches Received	62,971	109,776

# Methodology

In October and November 2022, AHIP and BCBSA collectively fielded a nationwide survey to health insurance providers with enrollment in the commercial market, including both employer-sponsored insurance and the individual market. The survey was distributed to 84 health insurance providers selling or administering group health plans and Qualified Health Plans. 33 health insurance providers, collectively representing 122 million commercial enrollees or 57% of the total commercial market, responded to the survey via an online tool.

The survey asked health insurance plans to provide their current commercial enrollment and the number of commercial claims they have incurred and paid in the January-September of 2022. Of these claims, the survey asked for the number of claims that were NSA-eligible and the number of claims submitted to IDR. Note that the survey counted each service or procedure as a separate claim. Thus, a single visit may result in multiple claims. In addition, the survey asked for the number of IDR batches the plans have received.

To arrive at the national estimate of the number of NSA-eligible claims, claims submitted to IDR and IDR batches received for claims that have been processed at the time of the survey, the study first calculated these measures per enrollee. It then multiplied these measures by the 2021 Census estimate of the total number of commercial enrollees (213 million) to arrive at the final estimate.

## ABOUT AHIP

AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit [www.AHIP.org](http://www.AHIP.org) to learn how working together, we are Guiding Greater Health.

## ABOUT BCBSA

The Blue Cross Blue Shield Association is a national federation of 34 independent, community-based and locally operated Blue Cross and Blue Shield companies that collectively provide health care coverage for one in three Americans.