

The No Surprises Act IDR System in 2025-2026: Data, Litigation, Structural Incentives and Employer Impact

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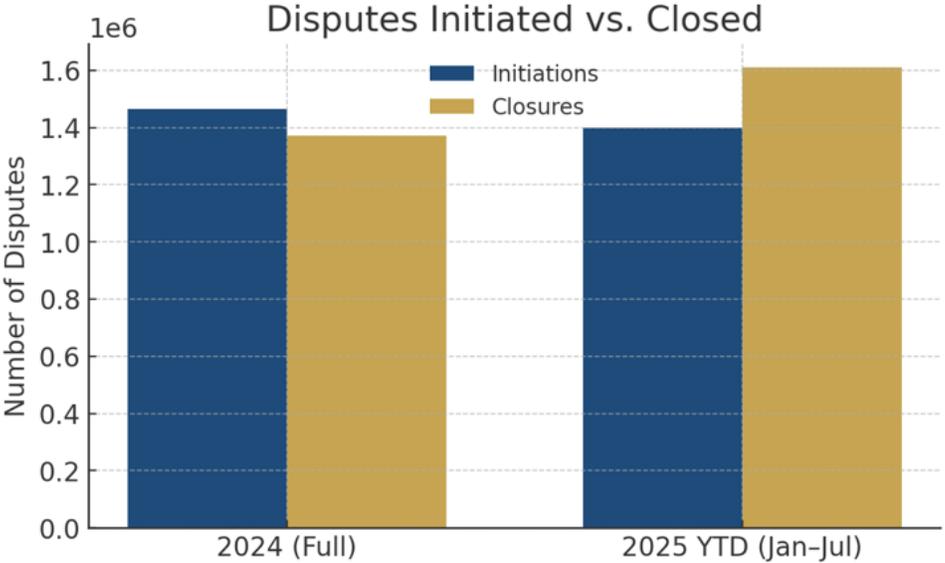
Executive Summary

In 2025, the Federal Independent Dispute Resolution (IDR) process under the No Surprises Act (NSA) reached an inflection point. Certified IDR entities closed more disputes than were initiated, providers continued to prevail in most determinations and eligibility denials receded. Yet the rapid backlog clearance and the per-eligibility fee model introduced new integrity risks: **the potential for an organization to suffer legal, financial or reputational damage from a failure to comply with laws, regulations, ethical standards or internal policies.** This paper integrates operational data, specialty and initiator analytics and legal developments to guide employers and plans.



The Year the System Balanced: IDR at Scale

Closures exceeded 1.37 million in 2024, and by July 2025, closures outpaced initiations year-to-date. This reflects expanded IDR entity capacity and portal process reforms.



Source: CMS Supplemental Background (2024) and Bi-Monthly Updates (2025).

Efficiency and Backlog Reduction

CMS reports show disputes older than 30 business days dropped from 69% in January 2025 to 34% by July, with 96.5% of disputes either resolved or <30 days old as of July. However, multiple stakeholders report that the race to clear the backlog reduced review depth. The fee structure — payment only after eligibility — creates an incentive for IDR entities to accelerate eligibility determinations.

Source: CMS Fact Sheet: “Clearing the IDR Backlog” (Sept. 19, 2025).



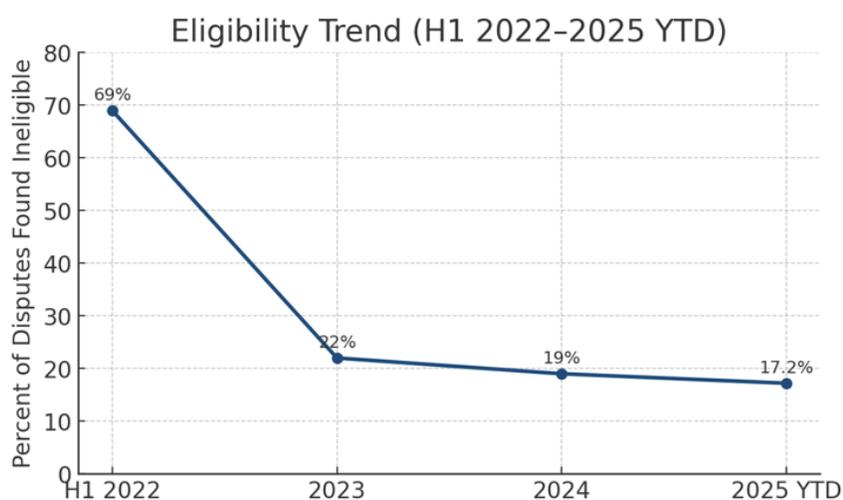
Provider vs. Plan Outcomes

In H2 2024, providers/facilities/air ambulance providers prevailed in ~85% of determinations, while plans prevailed ~15%. Pending 2025 Public Use Files (PUFs) will clarify whether this distribution persisted in 2025.

Source: CMS Supplemental Background (July–Dec 2024).

Eligibility and Throughput

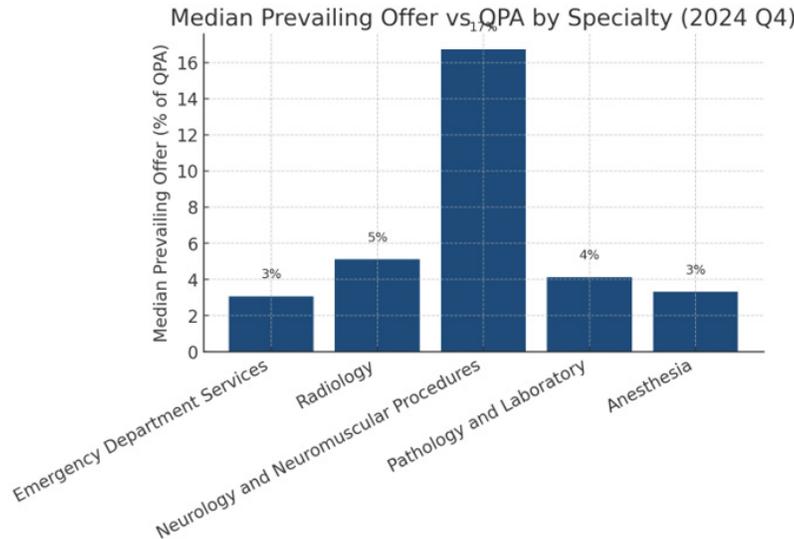
Ineligible dispute rates declined from 69% (H1 2022) to 22% (2023), 19% (2024) and ~17.2% (Jan–Jul 2025). This improvement may reflect more complete submissions, but may also reflect faster, less rigorous gatekeeping as IDR entities prioritize throughput.



Source: CMS Supplemental Background (2024) and Bi-Monthly Updates (2025).

Specialty Dynamics: Median Prevailing Offer vs. Qualifying Payment Amount (QPA)

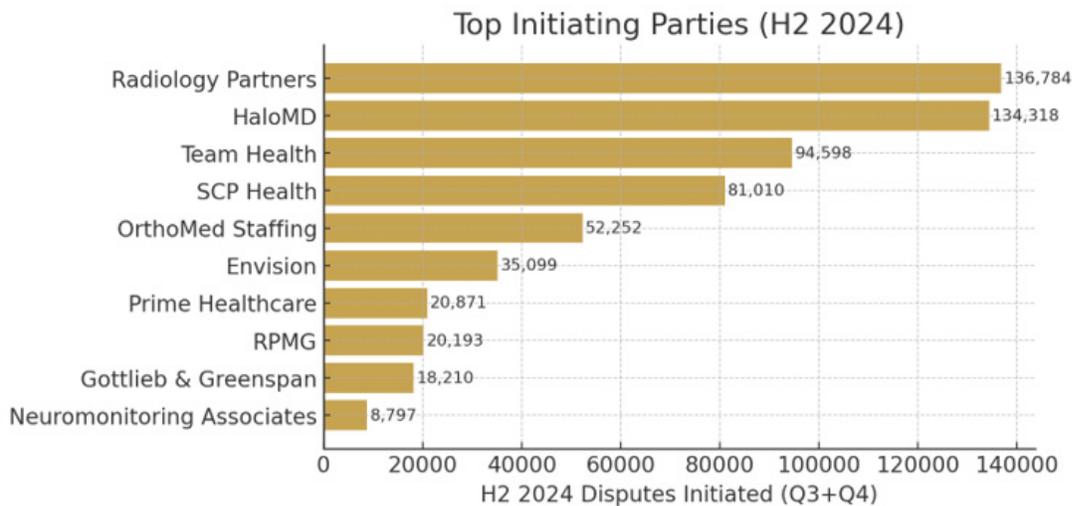
Specialty-level results from 2024 Q4 show median prevailing offers exceeding QPA across high-volume categories including Emergency Department Services, Radiology and Anesthesia, which aligns with employer exposure patterns in hospital-based billing.



Source: CMS Supplemental Tables, 2024 Q4 (Table 14).

Market Concentration: Top Initiating Parties

H2 2024 filings were dominated by a small number of initiators, including HaloMD, Radiology Partners, Team Health and SCP Health. This concentration suggests industrialized dispute strategies.



Source: CMS Supplemental Tables, 2024 Q3–Q4 (Table 8).

Litigation Landscape and Legal Analysis (2023–2025)

This period features pivotal decisions recalibrating arbitrator discretion and the role of the QPA, as well as award enforcement with direct implications for employer plans.

QPA Calculation

Texas Medical Association (TMA) III. *Tex. Med. Ass’n v. U.S. Dep’t of HHS*, 5th Cir. (Oct. 30, 2024)

The court decision in *Texas Medical Association (TMA) III* has created significant uncertainty and administrative burdens for employers and the health plans they sponsor. The ruling challenges regulations for calculating the QPA under the NSA, potentially affecting costs and the IDR process used to resolve billing disputes.

The Fifth Circuit held that health plans can use a wide variety of rates in calculating the QPA, including ghost rates, rates stemming from case-specific agreements and bonus and incentive payments.

The vacating of key provisions has created a “gray area” for health plans and issuers, which are facing legal challenges and a lack of clear guidance on how to calculate QPAs. This uncertainty exacerbates administrative costs for payers, including employer-sponsored plans, as they navigate evolving standards.

The NSA’s Missing Enforcement Provision

A major oversight in the drafting of the NSA is a provision allowing the winning party to enforce the IDR award. As drafted and enacted, the winning party has no rights to enforce any award. **This means that plans and insurers could choose not to pay the awards issued by the IDR entities without penalty.** Various courts (such as the Fifth Circuit and the Federal District Court for the District of New Jersey) have held that no private right of action (right of the winning party to file a case in court to enforce the award) exists. The courts have reasoned that, due to the mandatory nature of the IDR process, the Federal Arbitration Act (which allows a party to enforce an arbitration award in a typical civil arbitration) cannot apply. Furthermore, the NSA does not provide for any government agency enforcement or penalties.

The Supreme Court has so far opted not to take up this case. Accordingly, the lower courts holdings stand.

The enforcement of the NSA is a serious oversight that will need to be corrected legislatively. **That calls into question what will happen to the unpaid awards upon the creation of an enforcement mechanism.**

Systemic Incentives and Integrity Risks

The IDR payment model compensates certified entities only after eligibility is confirmed, creating a throughput-favoring incentive. Combined with public pressure to clear the backlog, this has likely shortened review depth. Recommended safeguards include: decoupling a portion of fees from eligibility determinations, randomized post-award audits, transparency dashboards on reversal and error rates, and sanctions for repeated batching or coding abuses.

Employer Implications and Strategic Outlook

Operationalize a defense-in-depth posture: (a) codify QPA governance and variance thresholds; (b) build specialty-specific evidence packs; (c) profile repeat initiators and default risks; (d) define settlement guardrails by service and region; and (e) adopt analytics to forecast exposure and prioritize contests.

About the Author



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Christine Cooper, founder and CEO of aequum LLC, is a transformative leader in the healthcare industry who is recognized for her pioneering spirit, dedication to positively move the needle for constituents in the self-insured community and assist and defend plans and patients. Cooper continues to bring technological advancements to the market space and has assembled a tech-driven team that effectively partners with TPAs, insurers, medical cost management companies and stop-loss carriers throughout the country.

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About aequum LLC

[aequum LLC](#) is an advocacy firm that partners with a national law firm, both of which specialize in No Surprises Act compliance and IDR defense for employers, plan sponsors, and TPAs. We combine litigation strategy, regulatory expertise, and data analytics to reduce exposure, improve outcomes, and promote systemic integrity.

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