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An Unanticipated and Significant Victory for Providers: HHS Withdraws Unfavorable Rule that Favored Payers Over Emergency Providers Under the No Surprises Act

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HHS has withdrawn its interim final rule requiring arbitrators in the IDR process to select the payment rate closest to the insurers' median in-network rate (i.e., QPA) under the NSA – an official and significant victory for providers.

HHS made this announcement in light of the federal court's recent decision in *Texas Medical Association et al. v. United States Department of Health and Human Services et al.*, vacating portions of the Rule requiring the arbitrator to presume that the QPA is the appropriate out-of-network rate. Read more about this decision [here](#).

While the court held that the NSA requires the arbitrator to consider *all* of the specified factors when determining the reimbursement rate, without giving weight to any one factor, HHS has not yet adopted this interpretation, but to do otherwise would be contrary to the court Order. HHS announced that it will be re-issuing guidance but has not yet provided a date certain.

For more information about the impact of this decision on your practice or facility, please contact Karen George at kgeorge@buchalter.com or Andrew Selesnick at aselesnick@buchalter.com.



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