

No Surprises Here! Connecticut District Court Confirms IDR Awards Are Enforceable Under the NSA, Deepening Judicial Divide Over Award Enforcement Mechanisms

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The U.S. District Court for the District of Connecticut has become the latest court to weigh in on whether Independent Dispute Resolution (“IDR”) awards issued under the No Surprises Act (“NSA”) are enforceable. In a [recent decision](#), the District Court has held that providers may sue to enforce arbitration awards issued in their favor under the NSA, rejecting the argument that the NSA contains no private right of action to enforce such awards. The decision comes amid an ongoing split among federal district courts on this issue, further amplifying uncertainty around the NSA’s implementation—and raising the stakes for insurers, providers, and policymakers alike.

The NSA’s Arbitration Process and the Awards at Issue

Passed in 2020, the NSA protects patients from so-called “surprise” out-of-network medical bills. These bills often arise in emergency situations or when a patient unknowingly receives care from an out-of-network provider at an in-network facility.

When the NSA applies, it caps patient cost-sharing at in-network levels and also prohibits out-of-network providers from balance billing to collect the remainder of their billed charges. If a provider seeks additional reimbursement for services rendered, the NSA permits the provider to engage in a two-step dispute resolution process: (1) a 30-day open negotiation period between the provider and payer, and if negotiation fails, (2) a “baseball-style” arbitration conducted by a certified Independent Dispute Resolution Entity (“IDRE”). The IDRE’s role is to choose between the provider’s and the payer’s offer, considering multiple statutory factors, including the Qualifying Payment Amount (“QPA”). An IDRE decision is binding upon the parties and must be paid within 30 days.

The NSA limits judicial review of IDR awards to narrow circumstances outlined in the Federal Arbitration Act (“FAA”).

However, the NSA does not specify if IDR awards can be enforced by a Court if the payor fails to pay the awarded amount, an omission that led directly to the current litigation. In this groundbreaking case, the plaintiffs—Guardian Flight LLC and several affiliated air ambulance providers—rendered out-of-network emergency transport services to patients covered by health plans administered and/or insured by Aetna and Cigna. After receiving unreasonably low initial payments, service providers initiated the NSA’s IDR process and prevailed. Despite the binding nature of the awards, however, both Aetna and Cigna failed to make timely payments or, in many cases, made no payments at all on the NSA awards, leading Guardian Flight and the other air ambulance companies to file suit to enforce the awards.

In their complaint, the service providers alleged multiple causes of action. First, they sought to enforce the unpaid awards under the NSA. They also brought additional claims under ERISA § 502(a)(1)(B), asserting that as the assignees of their patients’ benefit rights, they were entitled to payment of the full arbitration award. Finally, they also alleged violations of the Connecticut Unfair Trade Practices Act (“CUTPA”), based on Cigna and Aetna’s pattern of low, late, or non-payment that they characterized as a deliberate business strategy. In response, Aetna and Cigna moved to dismiss, arguing that the NSA does not provide a private right of action to enforce IDR awards, that the plaintiffs lacked standing under ERISA to bring their claims, and that the CUTPA claims were preempted.

The District Court sided with the service providers, holding that the NSA permits parties to IDR awards under the NSA. Here, the court found that the statutory text of the NSA contained multiple examples of mandatory and rights-creating language—specifically that insurers “shall” make payment and that awards “shall” be binding. The court also emphasized that while Congress did not incorporate the FAA’s award confirmation provision, that omission was consistent with the fact that NSA awards are self-executing and immediately enforceable upon issuance, unlike traditional arbitration awards, which must be confirmed in court under the FAA. Critically, the court rejected Cigna and Aetna’s argument that the absence of an express enforcement mechanism precluded judicial enforcement, warning that such an interpretation would lead to “absurd” results—namely, that compliance with IDR awards would rarely be required.

Finally, the court also upheld the service providers' ERISA claims, finding that they had standing as assignees of their patients' health plan benefits and could therefore sue to recover benefits due under those plans. The court rejected the defendants' argument that there was no concrete injury because the patients were not balance billed, emphasizing that the denial of full reimbursement constituted a redressable injury under ERISA regardless of whether the provider or the patient ultimately bore the financial burden. In addition, the court also upheld the plaintiffs' CUTPA claims, holding that such state law claims were not preempted by either the NSA or ERISA, reasoning that CUTPA claims premised on systemic underpayment practices could coexist with the federal scheme and, if anything, could support its implementation by incentivizing insurers to comply with the NSA's 30-day payment deadline through the threat of state-level penalties.

What's Next? Growing Judicial Divide and Increasing Likelihood of Appellate Review

The Connecticut court's decision adds to a growing body of federal district court decisions grappling with how—and whether—IDR awards under the NSA can be enforced. Previously, two other district courts [reached conflicting conclusions](#): the District Court for the District of New Jersey held that the FAA provides a mechanism to confirm NSA awards, while the Northern District of Texas concluded that there is no statutory basis to enforce them under either the FAA or the NSA. The Connecticut ruling generally tracks with the New Jersey District Court, though, by contrast, it grounds enforceability of IDR awards in the NSA itself, independent of the FAA. At bottom, however, with decisions now issued in three separate circuits—and a growing majority of courts concluding that IDR awards are enforceable—the issue is rapidly ripening for appellate resolution.

Meanwhile, appeals are ongoing in the Fifth Circuit, which recently granted a petition for an *en banc* rehearing of a separate appeal relating to [other aspects of the NSA's implementation](#). And, in the weeks since the Connecticut court's decision came down, Aetna has already sought leave to file an interlocutory appeal of the court's ruling, so the ultimate force and effect of the ruling remains unclear. These developments make further review by the Courts of Appeals all but certain, and review by the Supreme Court increasingly likely. Accordingly, providers and payers alike should take note that the risk landscape for NSA non-compliance is becoming more defined—and more actionable—and seek legal counsel to guide them as needed.

Proskauer's Health Care Group is actively monitoring developments related to the No Surprises Act and its implementation. For more insights into this and related regulatory trends, subscribe to the [Health Care Law Brief](#).

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