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No Surprises Here! Fifth Circuit Holds NSA Provides No Private Right of Action to Enforce IDR Awards, Deepening Judicial Divide on Award Enforcement Mechanisms

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In a recently issued opinion, the Fifth Circuit has added yet another chapter to the growing debate over whether providers may seek judicial enforcement of Independent Dispute Resolution ("IDR") awards issued under the No Surprises Act ("NSA"). In a much-anticipated decision, the Fifth Circuit has held that the NSA does not permit providers to bring private actions to enforce IDR awards, siding squarely with payers on this increasingly litigated question. The ruling sharpens a growing divide, leaving providers and payers to navigate an unsettled and increasingly complex enforcement landscape.

The Court's Ruling: A Comprehensive Rejection of Private Enforcement Mechanisms

The underlying litigation arose after two air ambulance providers—Guardian Flight, LLC and Med-Trans Corporation—secured favorable IDR awards against Health Care Service Corporation ("HCSC") under the NSA, which establishes a binding arbitration process for resolving payment disputes between out-of-network providers and insurers. After receiving either delayed payment or no payment on numerous awards, the providers filed suit in the District Court for the Northern District of Texas to enforce the awards. After the District Court dismissed the case, reasoning that the NSA does not include an express provision allowing for the enforcement of arbitration awards under the FAA, the providers appealed. On appeal, the providers alleged multiple causes of action, including (1) that HCSC's failure to timely pay the awards violated the NSA itself; (2) that HCSC's refusal to pay the awards constituted a denial of benefits under ERISA as assignees of plan beneficiaries; and (3) that HCSC had been unjustly enriched under state law by retaining the benefit of services provided without compensation.

The Fifth Circuit rejected each claim in turn.

First, on the core NSA claim, the court held that the statute contains no private right of action permitting judicial enforcement of IDR awards. Noting that the NSA expressly limits judicial review of IDR awards to narrow circumstances—fraud, corruption, or certain procedural errors— borrowed from the Federal Arbitration Act ("FAA"), the court reasoned that the statutory text of the NSA reflected a deliberate policy choice by Congress to channel enforcement through the administrative complaint process overseen by the U.S. Department of Health and Human Services ("HHS"). The court concluded that any form of court-ordered enforcement necessarily constitutes judicial review and was therefore barred absent an applicable FAA exception. This holding conflicts directly with other district court rulings—including a recent Connecticut decision—that have found implied enforcement rights under either the NSA or the FAA.

Second, the court affirmed the dismissal of the providers' ERISA claims for lack of Article III standing. While the providers had obtained valid assignments of benefits from their patients, the court held that the patients themselves had suffered no concrete injury as the NSA shields them from financial responsibility for out-of-network costs. Without actual harm to the beneficiaries, the Fifth Circuit declared, the providers—standing in the shoes of their assignors—lacked standing to assert derivative ERISA claims for unpaid plan benefits. This is an argument that health plans may attempt to recycle in other contexts.

Finally, the court also affirmed the dismissal of the providers' state law-based quantum meruit claims. Here, the court emphasized that under Texas precedent, health care services provided for the benefit of a patient cannot support a claim for unjust enrichment against an insurer, as the services at issue were not rendered for the insurer's benefit. The court declined the providers' invitation to carve out an exception for NSA-related services, concluding that established Texas law foreclosed their theory.

What's Next? Growing Entrenchment of Conflicting Approaches

The Fifth Circuit's decision marks a clear and categorical endorsement of the "no private right of action" camp, deepening the divide between courts that have found implied enforcement authority under the NSA and those that have rejected it. With district courts in Connecticut, New Jersey, and Texas having previously staked out competing positions—and now with a federal appellate decision adding further weight on one side—the issue continues to mature toward ongoing appellate (and potentially Supreme Court) resolution. In the interim, the Fifth Circuit's ruling is likely to embolden payers in ongoing disputes, while providers operating in different jurisdictions will face a patchwork of inconsistent judicial interpretations depending on where payment disputes begin. Meanwhile, although HHS retains authority to compel compliance through administrative enforcement mechanisms, this decision underscores that providers remain at the mercy of federal regulators in jurisdictions that reject private enforcement remedies under the NSA.

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 our Health Care Law Brief.

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Related Professionals

- **Vinay Kohli**
  Partner
- **Matthew J. Westbrook**
  Senior Counsel