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No Surprises Here! New York and Florida Courts Reject Provider Suits to Enforce NSA IDR Awards, Heightening Pressure for Appellate Review

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In a pair of recent back-to-back rulings, Federal district courts in Florida and New York have held that the No Surprises Act ("NSA") does not permit providers to bring private causes of action to enforce Independent Dispute Resolution ("IDR") awards issued under the NSA. Following on the heels of earlier rulings addressing the same issue, the two recent opinions underscore the courts' reluctance to expand enforcement remedies beyond what Congress expressly provided, sharpening existing fault lines and setting the stage for ongoing appellate — and potentially Supreme Court — intervention.

The Two Rulings: No Private Enforcement of IDR Awards

Enacted in 2020, the NSA created a baseball-style dispute resolution process that occurs directly between payers and providers to protect patients from bills for out-of-network emergency services and certain non-emergency care. Both the payer and provider submit a proposed payment amount for the services rendered, and a certified arbitrator must choose one of the two numbers. The NSA provides that awards issued by certified arbitrators are binding and must be paid within 30 days. Although the NSA specifies that awards are binding, it does not expressly address what recourse is available when a non-prevailing party fails to pay an award.

The key legal question now emerging is whether providers use the courts to enforce IDR awards when the non-prevailing party refuses to pay, or whether enforcement lies exclusively with federal regulators such as HHS and CMS. Multiple courts have reached different conclusions on whether providers may invoke judicial mechanisms to compel payment. Against this backdrop, two additional cases illustrate the prevailing trend.

In the first case, *Worldwide Aircraft Services Inc. d/b/a Jet ICU v. Worldwide Insurance Services, LLC d/b/a GeoBlue*, 8:25-cv-00167-MSS-NHA, Jet ICU, an air ambulance provider, secured multiple IDR awards totaling more than $1.1 million. When GeoBlue did not pay the awards, Jet ICU filed a petition to confirm the awards in federal court. The District Court for the Middle District of Florida dismissed the petition, expressly adopting the Fifth Circuit's reasoning in Guardian Flight (even though it was not bound by that Circuit's precedent). In reaching this conclusion, the district court concluded that the NSA not only fails to authorize judicial confirmation but affirmatively bars federal subject matter jurisdiction to confirm or enforce IDR determinations. Rather, the district court emphasized that judicial review is limited to the narrow vacatur grounds borrowed from the Federal Arbitration Act incorporated into the NSA, and that responsibility for ensuring compliance rests with CMS and HHS rather than with private plaintiffs.

In the second case, *East Coast Advanced Plastic Surgery and Marcella Livolsi v. Cigna Health and Life Insurance Company, Connecticut General Life Insurance Company, and Multiplan, Inc.*, 1:25-cv-00255-PAE, ECAPS, a plastic surgery center, obtained a favorable IDR determination worth more than $3 million. When Cigna did not pay the award, ECAPS sued Cigna in federal court, asserting claims under the NSA and the Declaratory Judgment Act (among other claims and counterclaims). The Southern District of New York dismissed the case in its entirety. On the NSA issue, specifically, the district court held that the NSA provides no private right of action to enforce IDR awards, reasoning that Congress deliberately withheld judicial confirmation authority. The district court also rejected ECAPS's attempt to rely on the Declaratory Judgment Act, explaining that the DJA does not create substantive rights where none exist in the NSA.

What's Next? Growing Entrenchment and Rising Stakes

Together with the Fifth Circuit's recent decision, these two rulings mark a deepening entrenchment of the "no private right of action" view, leaving providers who secure favorable IDR awards but face non-payment to rely on administrative complaint processes while giving payers additional ammunition to resist judicial enforcement. At the same time, the Southern District of New York's opinion creates conflicting authority within the Second Circuit, as other district courts there have previously recognized implied enforcement rights, while the Florida decision extends the "no private right" reasoning into yet another jurisdiction. The accumulation of conflicting district court rulings — combined with the Fifth Circuit's decision — makes further appellate consideration increasingly likely. Collectively, with disagreement now crystallizing at both the district and appellate levels, the likelihood of eventual Supreme Court review is rising as well. Until then, the enforcement landscape remains fractured, with payers citing these decisions to fend off enforcement suits and providers often seeing their IDR victories stalled absent regulator intervention. As the legal landscape increasingly favors agency enforcement over private rights of action, health care providers should continue to pursue the IDR process to preserve their rights but should also be prepared to engage with regulators to secure payment on any awards obtained.

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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