

More Than 2 Million Surprise Bills Avoided During January-February 2022

NO SURPRISES ACT PREVENTS FAR MORE SURPRISE BILLS THAN INITIAL ESTIMATES OF IDR VOLUME, VOTERS EXPRESS CONCERN ABOUT CHALLENGES TO LAW

On December 27, 2020, the No Surprises Act (NSA) was signed into law, marking the first federal consumer protections from surprise medical billing. Most of the law's provisions took effect at the beginning of 2022, applying to those enrolled in health insurance coverage or a group health plan renewing on or after January 1, 2022. Under the law, when anyone covered by private health insurance is treated for emergency services or at an in-network facility by an out-of-network provider, the health care provider or facility, such as a hospital, is prohibited from billing a patient above their in-network cost-sharing amount. The law establishes a process for resolving disagreements on what the health plan will pay the out-of-network provider or facility, culminating in independent dispute resolution (IDR).

A key question of interest to federal policymakers has been how many claims may be disputed through IDR in a given year. In the Economic Impact and Paperwork Burden analysis for the [Interim Final Rule](#) issued in October 2021 which outlines the IDR process, the Departments of Health & Human Services, Labor, and the Treasury estimated there would be 17,000 claims submitted to IDR annually.

A recent survey and analysis conducted by AHIP and the Blue Cross Blue Shield Association (BCBSA) found that in the first two months of 2022, the NSA prevented more than 2,000,000 potential surprise medical bills across all commercially insured patients. If only a fraction of these claims are ultimately disputed through IDR, it would still far exceed the government's estimate. Should the trend hold, more than 12,000,000 surprise bills will be avoided in 2022 due to the NSA.



The law is working to protect millions of consumers from costly surprise bills and yet several hospital and provider organizations have filed lawsuits challenging the NSA regulations and legislation in order to increase their own profits at patients' expense. Recent [polling](#) conducted by Morning Consult on behalf of the Coalition Against Surprise Medical Billing found that 8 in 10 voters, after learning about the NSA, are concerned that lawsuits from physician and hospital organizations could delay or overturn the patient protections in the Act.

The findings of the AHIP-BCBSA survey are important to demonstrate how many consumers have already benefitted from the NSA and to underscore the extent of total claims that could be impacted if the IDR process is not a predictable process with payment amounts that trend towards market rates.

Key Findings

In April 2022, AHIP and BCBSA conducted a survey of health insurance providers offering commercial health insurance coverage and group health plans to gather information on the number of claims that were eligible for dispute under the federal NSA in the first two months of 2022. An NSA-eligible claim was defined as a claim incurred by a member or enrollee covered by the plan or coverage during any plan year beginning on or after January 1, 2022 for an item or service within either of the following categories: Emergency services (including post-stabilization care) provided by a non-participating provider; Any non-emergency item or service provided by a non-participating provider at a participating facility (including hospitals, hospital outpatient departments, and ambulatory surgery centers). An NSA-eligible claim includes those described above that would not be otherwise subject to a state surprise billing law. All ERISA self-funded plan claims, and any fully insured plan claims in states without applicable surprise billing laws, are subject to the NSA.

The survey found that 0.23% of all commercial claims were NSA-eligible. The estimate may seem rather low but multiplied by the total number of claims in the commercial market, it yields a substantial number of potential surprise bills that have been avoided due to the NSA. Based on the survey responses of the claims that have been processed at the time of the survey, there were 600,000 NSA-eligible claims in the commercial market in January and February 2022.

However, due to the substantial delay in claims processing, the methodology assumes an undercount of the true number of NSA-eligible claims in the commercial market. Using past data on the total number of claims processed by commercial health plans, we estimate that there were more than 2 million NSA-eligible claims in commercial markets during the first two months of 2022.

Methodology

In April 2022, AHIP and BCBSA collectively fielded a survey to their respective member health insurance plans with enrollment in the commercial market, including both employer-sponsored insurance and individual market. The survey was distributed to 83 commercial health plans. 31 plans, collectively representing 115 million commercial enrollees or 54% of total commercial market, responded to the survey via an online tool.

The survey asked plans to provide their current commercial enrollment and the number of commercial claims they have incurred and paid in January and February 2022. Of these claims, the survey asked for the number of claims that were NSA-eligible.

To arrive at the national estimate of the number of NSA-eligible claims that have been processed at the time of the survey, the study first calculated the average number of claims per enrollee and share of claims that were NSA-eligible based on survey responses. It then multiplied the two estimates to find the share of NSA-eligible claims per enrollee. The [study](#) multiplied the share of NSA-eligible claims per enrollee by the 2020 Census estimate of the total number of commercial enrollees (213 million) to arrive at the final estimate.

To account for the delay in processing the commercial claims, the study relied on pre-public health emergency data for January and February 2020 from the IBM Commercial Claims Dataset. The study used the dataset to calculate the average number of claims per enrollee. Using the survey and Census estimates, the study further calculated the share of NSA-eligible claims per enrollee and the projected final number of NSA-eligible claims.