No Surprises Act dispute system cuts provider network participation by 20%

By Allison Bell

September 08, 2026 at 04:05 PM

A team of university economists says the No Surprises Act independent dispute resolution system really is driving up employers' health plan costs.

Panle Jia Barwick and three colleagues have concluded in a new working paper that the IDR system is increasing insurers' and health plans' spending on the eligible claims, increasing coverage premiums and giving the health care providers who can use the IDR system an incentive to leave health plan provider networks.

Access to the IDR system reduces the odds that an emergency room doctor, a radiologist or an anesthesiologist will be in a plan's network by about 20%, the researchers estimated.

The system helps health plan enrollees avoid $57 in "surprise" hospital bills per year, but it's leading to big increases in annual premiums for all patients, the researchers reported.

For consumers who get individual coverage through the ACA public exchange system, the impact of the IDR system is big enough to increase

annual premiums by $183 per year for a 27-year-old and by $322 for a 50-year-old, the economists estimated.

IDR system managers could reduce the impact of the IDR system on plan costs and provider network participation rates by increasing the fees for providers that start claim payment disputes, tying the amounts awarded more closely to typical Medicare payment rates for an item or service, and taking steps to crack down on physicians who "file large dispute volumes while remaining out-of-network," the economists say.

What it means: The economists think their paper means policymakers need to think harder when they try to set up new dispute-resolutions systems.

"A dispute-resolution mechanism intended as a backstop can become a primary channel of market activity when it offers participants more favorable terms than bilateral negotiation," the economists said.

The backdrop: Congress passed the No Surprises Act in an effort to protect some patients with commercial health coverage against unexpected hospital bills.

The system requires payers and hospitals to resolve billing disputes directly, without involving the patients, when the disputes are over insured patients who receive emergency air ambulance services, insured patients who receive emergency care in out-of-network hospitals, and many insured patients who unintentionally see out-of-network physicians while getting care at in-network hospitals.

Insurers and employers say the system is siding with the physicians and hospitals more than 80% of the time and awarding payment amounts far

higher than what Medicare or commercial plans would typically pay for the services.

Related: Will high No Surprises Act arbitration awards pump up the federal budget deficit?

Physician groups have argued that insurers, employer groups and other payers may be analyzing the IDR system data in ways that make the system look more favorable to physicians, hospitals and other providers than it really is.

The National Association of Independent Review Organizations says that physicians are winning so often partly because the IDR system rules require the "IDR entity," or dispute umpire, to rule in favor of the side that has presented the best arguments at the time that the IDR entity is deciding the case, and that the payers have been terrible at defending themselves.

The payers say they are having trouble with defense because the payers have been flooding the IDR system with weak cases and with cases that aren't eligible for the IDR system in the first place.

The paper: Barwick, the lead author of the new paper, is an economist at the University of Wisconsin-Madison. The other authors are Tianli Xia of the University of Rochester, Anran Li of the University of Minnesota Twin Cities and Shizhe Yu of the University of Wisconsin-Madion.

A working paper is an academic paper that has not yet gone through a full peer review process.

The paper appears on the website of the National Bureau of Economic Research.

The study methods: The researchers started by combining data from 2017 through 2025 from sources such as the Affordable Care Act public exchange system, the government IDR system, and Ideon provider network participation database.

The researcher then measured the impact of the IDR system by comparing what happened to the network participation rates of physicians who could often use the IDR system, such as emergency room doctors, with physicians who usually could not use the IDR system, such as psychiatrists and primary care physicians.

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