BlueCross BlueShield Association

The Price Tag for the No Surprises Act

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Agenda

- Escalating Costs of the No Surprises Act Independent Dispute Resolution (IDR) Process
- What's Driving Costs
- What NAIC and States Can Do
- Questions

Escalating Costs of IDR

Nearly $300B in avoidable costs over the next 5 years from the Federal IDR process.

Assumptions[1]

- Total volume of IDR disputes finalized in 2025 (excluding cases determined ineligible by IDRE)
- Administrative fee of $15 per party per dispute given IDR Operations Final Rule change starting in 2026 (2025 figure was over $500M)
- Total IDRE fees for disputes in 2025 (averaging $567 per case per entity)
- Average award amount in excess of the qualifying payment amount (QPA) was $5,649 in 2025
- Current case growth trajectory of 50% annually based on experience from 2022-2025
- **Does not include:**
  - Escalation in average award amounts (in excess of QPA)
  - Impact to network participation and in-network reimbursement
  - Costs of administering the process by CMS, employer, plans and providers (CMS estimated this would be $857 per dispute)
  - Inflation in IDRE fees

Escalating Costs of IDR

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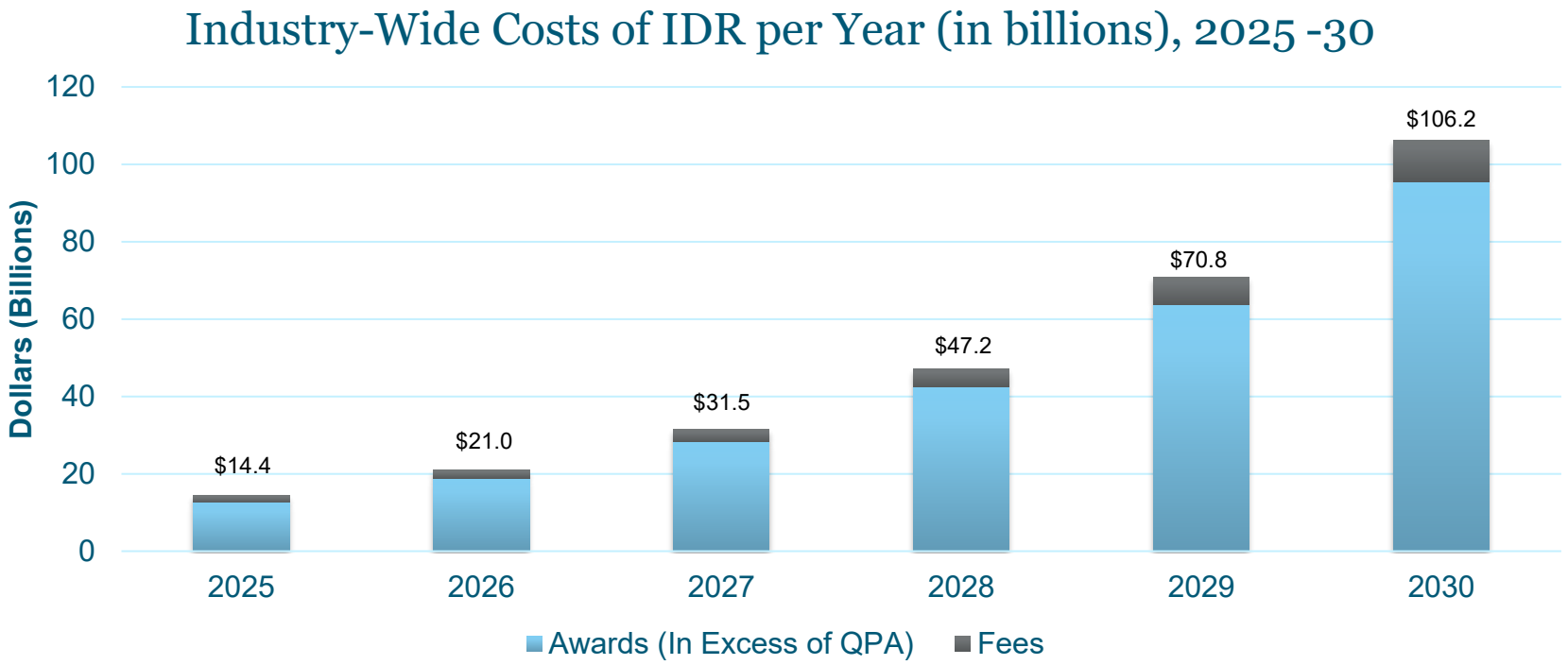

What's Driving Costs

The IDR process has flawed incentives that are being gamed.

- IDREs are paid per case and only if they make a final determination, incentivizing them to encourage providers to file.
- IDREs are not being held accountable for their determinations. There is no counterweight on the volume-based incentives.
- The baseball-style process - with no anchor in market rates - encourages providers to escalate offers.
- Providers are increasingly filing for high-cost services that should be excluded from IDR, specifically scheduled services.

Over 40% of Disputes From a Small Handful of Providers or Firms Representing Them[4]

44% of IDR filings in the first half of 2024 came from just three private equity-backed provider groups.

Nearly 40% of Disputes Identified As Ineligible[5]

Nearly 40% of 2024 IDR disputes shouldn't have qualified, yet many proceeded anyway, leaving employers and health plans to absorb costs for claims that should have been dismissed.

Median provider awards continue to be 400-500% of QPA[3]

In the second half of 2025, the median plan offer was slightly higher than the median QPA, whereas the provider offer was more than 4-5 times the QPA.

More dramatically – 2% of provider awards exceeded 100,000% of QPA and 18% of awards were between 1,000-10,000% of QPA.

Providers Win More Than 80% of Cases[2]

Providers prevail in more than 80% of cases – with specific IDREs having provider win rates above 90% - a lopsided success rate that suggests the system is anything but neutral.

What NAIC and States Can Do

Reduce the impact of the federal process

States have several options on how to reduce costs for patients and mitigate the harmful effects of the federal IDR process.

- Adopt and improve state processes to lower costs and reduce use of the federal process:
  - Using direct benchmarking outside or as part of a dispute resolution process
  - Allowing self-insured group health plans to opt in to state surprise billing processes
  - Restructuring arbitrators' financial incentives and impose accountability
  - Establishing penalties for ineligible submissions
- Discouraging actions that increase use of the federal process:
  - Defaulting or optioning use of the federal IDR process
  - Including additional elements into state surprise billing processes (e.g., new types of services, prior authorization determinations)

Urge federal regulators to act now to improve the federal process

Advocate for the federal government to take immediate action under their existing regulatory authority to reduce overuse and bias in IDR driving the increased costs.

- Address the affordability concerns and the rising costs to patients and employers — driven by escalating awards and claim volume — that run counter to the law's intent
- Reduce incentives for providers to submit ineligible cases and overuse the process
- Improve the quality of IDRE decision-making through increased oversight and accountability

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Endnotes

1. CMS 2025 IDR Public Use Files - Independent dispute resolution reports | CMS
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*
5. New AHIP/BCBSA Survey Finds Providers are Flooding IDR System with Ineligible Disputes. Oct 2024. New AHIP/BCBSA Survey Finds Providers are Flooding IDR System… - AHIP