

IRS Announces Indexing Factor to Calculate No Surprises Act's Qualifying Payment Amount for 2024

EBIA Weekly (December 21, 2023)

IRS Notice 2024-01 (Dec. 19, 2023)

Available at <https://www.irs.gov/pub/irs-drop/n-24-01.pdf>

The IRS has issued Notice 2024-01, setting forth the indexing factor to be used by group health plans and insurers to calculate the qualifying payment amount (QPA) under the No Surprises Act for items or services provided on or after January 1, 2024, and before January 1, 2025. As background, the No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021 (CAA, 2021), expanded patient protections to shield individuals from surprise bills for certain out-of-network emergency and non-emergency services, including certain air ambulance services. The QPA is based on the plan's median in-network rate as adjusted according to rules set forth in regulations and in subsequent FAQ guidance issued after a court vacated aspects of the regulations.

Under the regulations, calculating the QPA for an item or service provided in 2022 involved increasing the median contracted rate for the same or similar item or service under the plan or coverage as of January 31, 2019, by the combined percentage increase in the consumer price index for all urban consumers (U.S. city average) (CPI-U) over 2019, 2020, and 2021. To calculate the adjusted QPA for items and services furnished during any year after 2022, the prior year's adjusted QPA is multiplied by the applicable percentage increase for the most recent year (i.e., adjustments are cumulative). To simplify this calculation, IRS Notice 2024-01 includes a table setting forth cumulative percentage increases. The percentage increase from 2023 to 2024 is 1.0543149339. After applying the percentage increase, group health plans and insurers may round any resulting QPA to the nearest dollar.

EBIA Comment: Those responsible for calculating QPAs on behalf of group health plans and insurers will need to take note of this guidance as they implement these complex rules for 2024. The table of cumulative percentages and examples provided in the notice may be helpful. For more information, see EBIA's Health Care Reform manual at Section XII.B.3 ("Surprise Medical Billing: Emergency and Non-Emergency Services") and EBIA's Group Health Plan Mandates manual at Section XIII.B.3 ("Surprise Medical Billing (Emergency and Non-Emergency Services)"). See also EBIA's Self-Insured Health Plans manual at Section XIII.C ("Federally Mandated Benefits"). Contributing Editors: EBIA Staff.

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