

Court Rejects Provider's Request to Block Surprise Billing IDR Decision

EBIA Weekly (February 20, 2025)

Worldwide Aircraft Servs., Inc. v. HHS, 2025 WL 388580 (M.D. Fla. 2025)

Available at

https://ecf.flmd.uscourts.gov/cgi-bin/show_public_doc?2024-02156-24-8-cv

A court has rejected an air ambulance provider's request for an injunction prohibiting HHS from enforcing an unfavorable surprise billing independent dispute resolution (IDR) decision. As background, the No Surprises Act (NSA), enacted as part of the Consolidated Appropriations Act, 2021, shields individuals from surprise bills for out-of-network emergency and non-emergency services, including certain air ambulance services. The agencies issued several regulations to implement the procedural aspects of plan payments to nonparticipating providers subject to the surprise billing protections, including rules governing the IDR process—some of which have been vacated. The air ambulance provider in this case had initiated two payment disputes that were rejected by certified IDR entities because the services at issue were not covered by the plan. The provider sued, asking the court to block HHS from enforcing or applying any rule or policy that permits certified IDR entities to decide disputes on any basis other than selecting one of the offers submitted by the parties and considering only statutory factors.

The court granted HHS's request to dismiss the case, pointing out that, under the NSA, a provider cannot take advantage of the IDR process if the service it provided would not ordinarily be covered by the patient's health plan. Here, because the certified IDR entities determined that air ambulance transportation would not have been covered even if provided by a participating provider, the air ambulance provider was not eligible to resolve its disputes through IDR.

EBIA Comment: The surprise billing IDR regulations remain in flux. Nevertheless, this air ambulance provider's claim ignores the NSA's threshold coverage requirement that must be met before initiating the IDR process. For more information, see EBIA's Self-Insured Health Plans manual at Section XIII.C.12 ("Patient Protections: Surprise Billing Independent Dispute Resolution") and EBIA's Group Health Plan Mandates manual at Section XIII.B.4 ("Surprise Air Ambulance Billing"). See also EBIA's Health Care Reform manual at Section XII.B.3 ("Surprise Medical Billing: Emergency and Non-Emergency Services").

Contributing Editors: EBIA Staff.