





111TH ANNUAL MEETING &
EDUCATION SUMMIT

WELCOME

Strategies for Preventing and Managing Price Transparency Enforcement

Wednesday, May 20 --- 8:30 – 9:30 AM

Session #46

Tim Cahill, JD

Partner

Dinsmore & Shohl, LLP

Joe Wheeler, JD

Senior Associate

Dinsmore & Shohl, LLP

LEGAL & COMPLIANCE TRACK

Sponsored by:

Dinsmore
LEGAL COUNSEL

STRENGTH IN UNITY



***CE Credits available
for this session:
CLE, CPE***

To receive your Continuing Education certificate(s):

Complete the session evaluation(s) you attended.

Please click on the link provided in the mobile app under each session.



WI-FI

Network: HyattEvents

Password: OHA2026



Price Transparency and the No Surprises Act in 2026

Strategies for Preventing and Managing Price Transparency Enforcement

Tim Cahill – Partner

Joe Wheeler – Senior Associate

Where excellence means more.

The Team



Timothy Cahill, Esq.



Joseph Wheeler, Esq.

This is the Legal Track after all...

The information provided in this presentation is intended only to be a general and informal summary of technical legal standards and provided only for informational purposes. It is not intended to take the place of the statutes, regulations, or formal policy guidance upon which it is based. This presentation summarizes current policy and operations as of the date it was presented. We encourage readers to seek legal advice and refer to the applicable statutes, regulations, and appropriate interpretive materials for complete and current information.

Today's Agenda



Recap

Developments

Impact

Enforcement

What's next?

Conclusions & Discussion



SECTION 1

The Recap: Price Transparency v. Surprise Billing

Price Transparency v. Surprise Billing

Price Transparency

Laws and requirements primarily related to requiring hospitals to disclose service or contracted pricing information.

Surprise Billing

Laws and requirements related to prohibiting or limiting patient financial liability for certain types of services.

Price Transparency v. Surprise Billing

Price Transparency

- “Hospital Price Transparency” (HPT) rules and state law equivalent
- Hospitals must publicly post a:
 - comprehensive list of charges in machine readable format (MRF) and
 - a consumer-friendly display of services OR provide a price-estimation tool
- Must attest to the requirements

Surprise Billing

- No Surprises Act and state law equivalent
- Imposes limitations on balance billing for certain services and locations
- Imposes obligation to provide good faith estimates
- Requires accurate and up to date provider directories
- Establishes dispute resolution processes

Price Transparency v. Surprise Billing: Ohio

Price Transparency

- Pricing information must be updated at least once per calendar year and must be displayed in dollar amounts
- Must notify ODH via EMResource of updates
- Limitations on use of personal data/advertising
- Separate penalties and enforcement under Ohio law

Surprise Billing

- asd

Price Transparency v. Surprise Billing: Key Terms

Price Transparency

- Civil Monetary Penalties (CMP(s))
- MRF data elements
- Enforcement actions

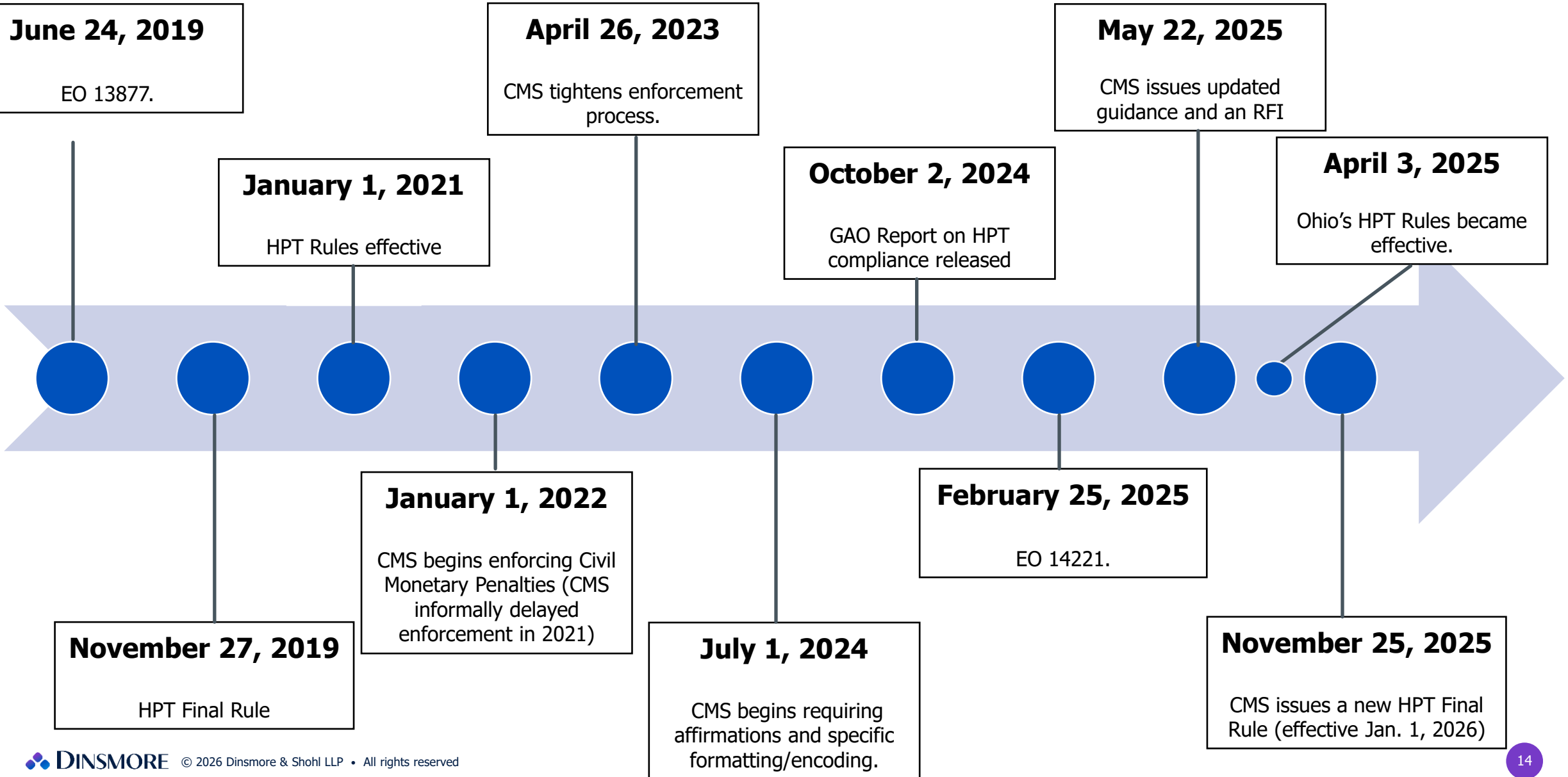
Surprise Billing

- Independent Dispute Resolution (IDR) Process
- Qualifying Payment Amount (QPA)

SECTION 3

Legal Developments

Price Transparency Rules Timeline



GAO Report Findings (spoiler alert)

- GAO identified three challenges that prevented stakeholders from being able to use hospital pricing data in the MRF;
 - Technical challenges (location, size, formatting, and disparate elements);
 - Complexity of data (formulas, context, and algorithms); and
 - Missing/incomplete data.
- Few patients use the data to actually shop for services
- Despite taking enforcement actions, CMS cannot easily verify the accuracy or completeness of the pricing data.

2026 Hospital Price Transparency Rule

- Effective January 1, 2026, hospitals must:
 - provide the “Median Allowed Amount,” “10th Percentile Allowed Amount,” “90th Percentile Allowed Amount,” and “Count of Allowed Amounts;”
 - provide the Median, 10th Percentile, and 90th Percentile amounts in dollars when there is a payor-specific negotiated charge based on a percentage/algorithm;
 - name of the executive responsible for overseeing MRF;
 - include organizational NPIs in MRF
- CMP waivers are available as of January 1, 2026; and
- Enforcement of new requirements began April 1, 2026.

No Surprises Act Timeline

December 27, 2020

Consolidated Appropriations Act of 2021 signed into law.

July 13, 2021

HHS, DOL, and IRS release first set of interim final rules (IFR) for the NSA.

October 28, 2021

The Texas Medical Assoc. (TMA) files a lawsuit challenging the IFRs.

August 3, 2023

The IDR portal is shut down as a result of TMA IV.

February 17, 2022

Ohio enters into a collaborative enforcement agreement with CMS.

October 7, 2021

HHS, DOL, and IRS release second set of IFRs.

August 26, 2022

The IFRs become the final rules.

April 12, 2021

Ohio's No Surprises Act becomes effective.

January 1, 2022

NSA becomes effective.

July 2025

Anthem sues HaloMD over its use of the IDR process.

TMA I

Filed: Oct. 28, 2021

At issue:

Whether the NSA's July 2021 interim final rules unlawfully required arbitrators to "rebuttably presume" the offer closest to the qualifying payment amount (QPA) was the appropriate out-of-network rate. The U.S. District Court for the Eastern District of Texas said yes.

Impact:

Physicians say the law required the arbitrator to take into account several factors in determining appropriate payment, not just the insurer-calculated QPA, in order to promote a fair negotiation process.

Case name:

Texas Medical Association and Dr. Adam Corley v. United States Department of Health and Human Services, Department of Labor, Department of the Treasury, Office of Personnel Management, and the current heads of those agencies in their official capacities

TMA II

Filed: Sept. 22, 2022

At issue:

Whether the NSA's August 2022 final rules (rewritten after the ruling in TMA I) conflict with the law by requiring arbitrators to give outsized weight or consideration to the QPA. The district court said yes. Federal regulators have appealed to the 5th U.S. Circuit Court of Appeals.

Impact:

Physicians say improperly weighting the QPA over other statutory factors relevant to the value of physicians' services puts practices at a disadvantage, threatening their sustainability and ultimately patients' choices of affordable in-network care.

Case name:

Texas Medical Association, Dr. Adam Corley, and Tyler Regional Hospital, LLC v. United States Department of Health and Human Services, Department of Labor, Department of the Treasury, Office of Personnel Management, and the current heads of those agencies in their official capacities

TMA III

Filed: Nov. 30, 2022

At issue:

Whether the NSA's July 2021 interim final rules artificially deflate the QPA by, among other things, using so-called ghost rates – contract rates with physicians and others who don't actually provide the particular health service – in QPA calculations. The district court said yes. Federal regulators have indicated they will appeal.

Impact:

Physicians say the calculations mean physicians have the scales tipped against them from the outset of negotiations. If accepted in arbitration, they also could be used by health plans in other contexts to continue to decrease physician payments below market rates.

Case name:

Texas Medical Association, Dr. Adam Corley, and Tyler Regional Hospital, LLC v. United States Department of Health and Human Services, Department of Labor, Department of the Treasury, Xavier Becerra in his official capacity as the Secretary of Health and Human Services; Kiran Ahuja in her official capacity as the Director of the Office of Personnel Management, Janet Yellen in her official capacity as the Secretary of the Treasury, and Martin J. Walsh in his official capacity as the Secretary of Labor

TMA IV

Filed: Jan. 30, 2023

At issue:

Whether federal regulators unlawfully hiked the administrative fees to access the dispute resolution process by 600% and restricted the batching rules used to combine certain claims. The district court said yes. At press time, TMA was analyzing new proposed rules.

Impact:

Physicians, especially those with smaller claims, say the regulations have made the process cost-prohibitive and inefficient, to the point doctors are unable to access it and, ultimately, a chance at fair payment.

Case name:

Texas Medical Association, Dr. Adam Corley, Tyler Regional Hospital, LLC, Texas Radiological Society, and Houston Radiology Association v. United States Department of Health and Human Services, Office of Personnel Management, Department of Labor, Department of the Treasury, Centers for Medicare & Medicaid Services, Xavier Becerra in his official capacity as the Secretary of Health and Human Services; Kiran Ahuja in her official capacity as the Director of the Office of Personnel Management, Janet Yellen in her official capacity as the Secretary of the Treasury, Martin J. Walsh in his official capacity as the Secretary of Labor, and Chiquita Brooks-LaSure in her official capacity as Administrator of the Centers for Medicare & Medicaid Services

NSA Litigation Wave – Part 2

- Beginning in late 2024, health insurance companies began filing lawsuits against providers, IDR entities, and others.
 - *Anthem v. HaloMD LLC et. al.*, Case No. 8:25-cv-01467-KES (C.D. Cal. 2025).
 - *Aetna v. Radiology Partners et. al.*, Case No. 3:24-cv-1343-BJD-LLL (M.D. Fla. 2024).
- At the same time, providers have begun filing lawsuits (hundreds of them) against health insurance companies seeking to enforce their IDR awards.
 - *Guardian Flight v. HCSC*, Case No. 3:23-CV-1861 (5th Cir. 2025).
 - *PHI Health LLC v. United Healthcare*, Case. No. 25-CV-2320-ABA (D. Maryland 2026)



SECTION 3

The Impact So Far

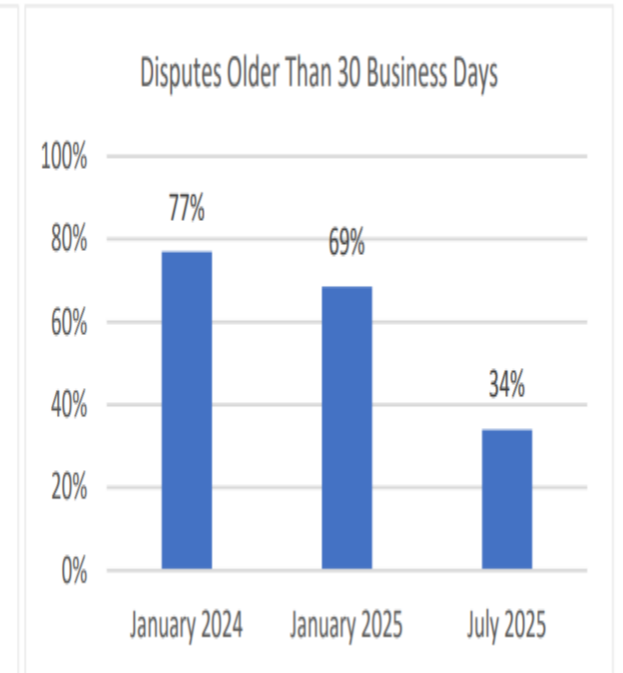
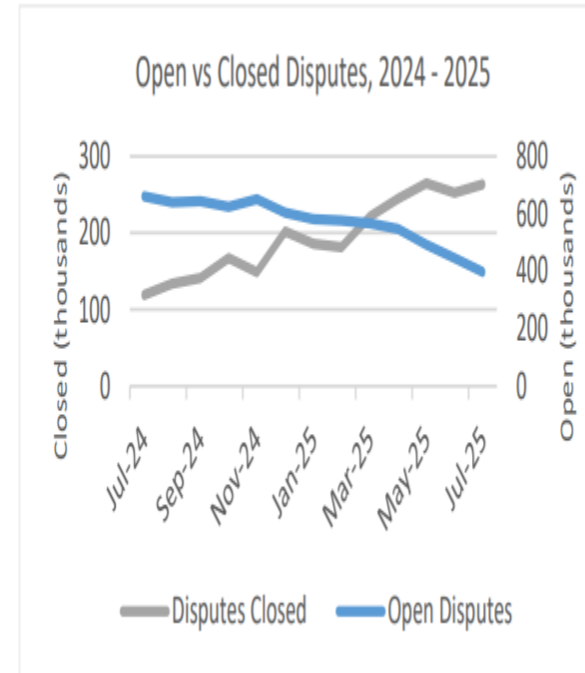
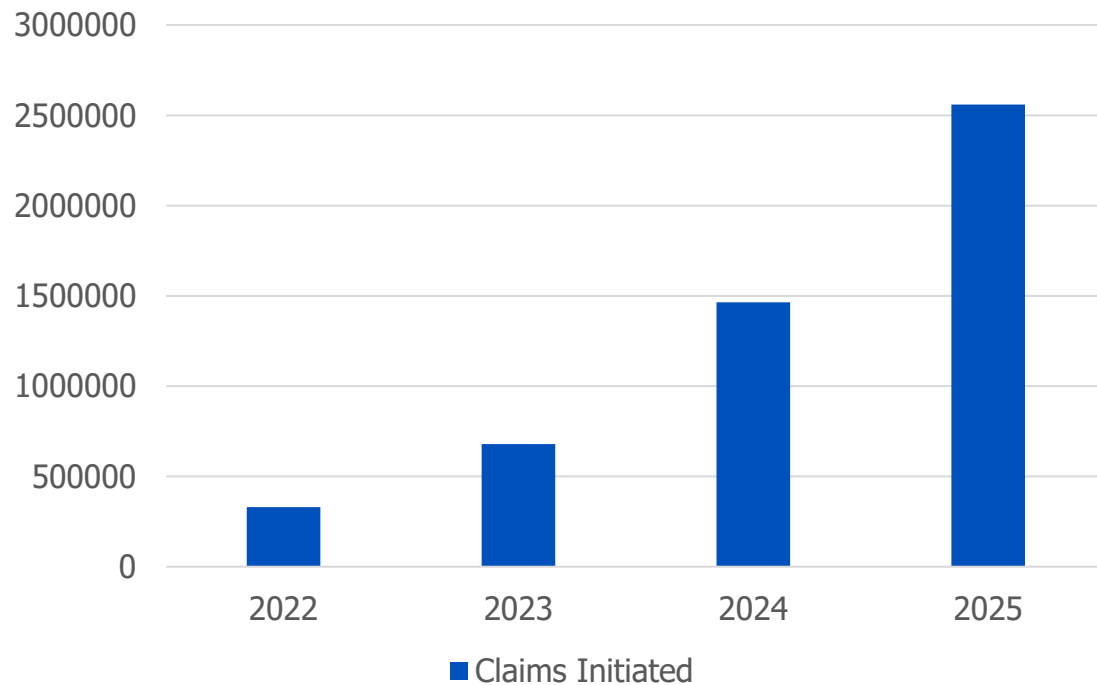
Impact of the HPT Rules

- Hospitals have been, and remain, slow to adopt HPT requirements despite escalating enforcement.
- As of November 2024, HHS-OIG estimates that 46% of hospitals still were not compliant with the HPT rules.
- The accuracy, completeness, and useability of the data reported by hospitals remains a top concern. Research-based organizations have been some of the most vocal about this failure.

Impact of the NSA

- In the first year, 334,828 IDR disputes were filed (14x greater than the anticipated volume) and IDR Entities only resolved 106,615 disputes. 3.3 million have been filed as of May 2025.

Claims Initiated



Impact of the NSA (cont.)

Payment Determination Outcomes, 2025 Q2

	OON Emergency or Non-Emergency Items or Services	OON Air Ambulance Services	Total
Total Payment Determinations Made	603,757	12,263	616,020
Number of Payment Determinations where the Provider, Facility, or Air Ambulance Provider is the Prevailing Party	532,614	10,938	543,552
Number of Payment Determinations where the Health Plan or Issuer is the Prevailing Party	70,674	1,310	71,984
Number of Payment Determinations Resulting in Split Decisions	463	14	477
Number of Payment Determinations where Only One Party Submitted an Offer and Paid Fees	134,103	1,738	135,841
Number of Payment Determinations where the Prevailing Offer is Greater than the Qualifying Payment Amount (QPA)	527,924	11,286	539,210

Prevailing Offers Relative to QPA by Cost Band, 2025 Q2

QPA Range	Median Prevailing offer as % of QPA	Total Number of Payment Determinations	Total Number of Items or Services
<\$100	591%	152,735	477,934
\$100 - \$500	345%	357,596	648,327
\$500 - \$1,000	300%	67,799	85,959
\$1,000 - \$5,000	249%	70,234	80,419
\$5,000 - 10,000	238%	8,600	8,981
>=\$10,000	173%	12,656	13,334

88%

87.5%

IDR Claims by Specialty

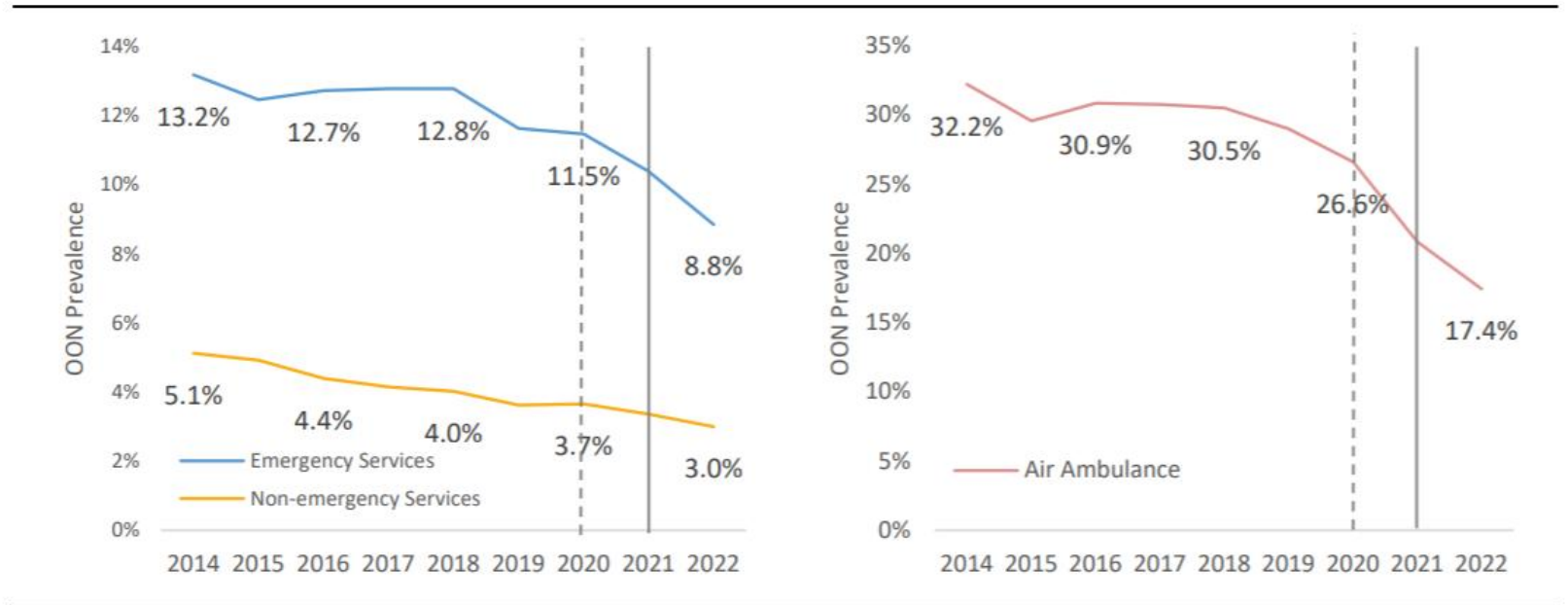
Table 14: Prevailing Offers Relative to QPA by Specialty, 2025 Q2				
CPT Range	Specialty	Median Prevailing offer as % of QPA	Total Number of Payment Determinations	Total Number of Items or Services
70010 - 79999	Radiology	512%	113,968	335,461
10004 - 69990	Surgery	1,319%	48,614	60,387
0001U - 0475U, 80047 - 89398	Pathology and Laboratory	450%	26,623	117,337
99281 - 99288	Emergency Department Services	312%	286,070	474,969
95700 - 96020	Neurology and Neuromuscular Procedures	2,862%	42,152	52,641
99202 - 99215	Office or Other Outpatient Services	1,240%	681	723
93880 - 93998	Noninvasive Vascular Diagnostic Studies	732%	5,780	8,095
91010 - 91322	Gastroenterology	11,567%	17	17
99217 - 99239	Hospital Inpatient and Observation Care Services	357%	10,073	26,549
99381 - 99429	Preventive Medicine Services	275%	78	110
94002 - 94799	Pulmonary	484%	3,085	3,258
99424 - 99491	Care Management Services	238%	960	3,180
99466 - 99480	Inpatient Neonatal Intensive Care Services and Pediatric/Neonatal Critical Care Services	231%	840	2,945

Impact of the NSA (cont.)

HHS estimates that:

- the prevalence of OON bills has declined by 15% (emergent) and 11% (non-emergent);
- the average total per-claim OON payment declined by 28% (emergent) and 21% (non-emergent); and
- the average out-of-pocket payment for OON bills declined 29% (emergent) and 28% (non-emergent)

Figure 2-1 – Prevalence of OON Bills by Type of Service, 2014–2022



Source: Analysis of Health Care Cost Institute 2.0 data.

Notes: The dashed vertical line indicates the last year before the passage of the NSA (in December 2020), and the solid vertical line indicates the last year before the implementation of the NSA, which began in January 2022.

OON = Out-of-Network



SECTION 4

Enforcement

Hospital Price Transparency Enforcement

- In 2026 so far, there have been approx. 375 administrative actions taken to date, including approx. 71 Corrective Action Plan (CAP) requests and 1 CMP imposed for \$51,000.
- In 2025, there were approx. 1,650 administrative actions taken including approx. 600 CAP Requests and 10 CMPs imposed (ranging between \$50,000 and \$310,000).
- In 2024, there were approx. 950 administrative actions taken, including 370 CAP requests and 3 CMPs were imposed (2 were approx. \$50,000 and the third was for \$871,122).
- From 2020 to April 2023, CMS took approx. 1,000 administrative actions, including 269 CAP requests.

HPT Enforcement Process

- CMS updated its enforcement process in 2023 to streamline and shorten the time to come into compliance.
- The primary triggers for CMS review are:
 - public complaints;
 - CMS audits; and
 - self-reporting.
- CMS prioritizes audits/reviews based on the degree of the hospital's apparent compliance.



NSA Enforcement

- There has been a considerable uptick in CMS enforcement of NSA provisions as they have expanded their compliance/complaint investigation capabilities in response to the overwhelming number of disputes filed under the IDR.

CMS Complaint Data and Enforcement Report Summary

Type of Complaint Data	Number of Complaints
Total complaints received	39,999
Total complaints currently open	24,854
Total complaints closed ²	15,145
Total complaints closed with violation found	2,086
Total complaints closed with no violation found	7,838
Monetary relief resulting from closed complaint investigations	\$30,053,069
Total Closed MHPAEA Compliance Complaints	53
Total Closed ACA Compliance Complaints	293
Total Closed NSA Compliance Complaints	14,799
Closed NSA complaints against issuers and non-federal governmental plans	3,219
Closed NSA complaints against providers, facilities, and providers of air ambulance services	11,417
Closed NSA complaints against other entities	163

NSA Enforcement

- The NSA patient complaint process is proscribed by regulation.
- There has been a noticeable uptick in patient complaint investigations as well.
- Do not exceed the scope of this complaint process.

Top 3 most common complaints against issuers and non-federal governmental plans

Type of Complaint	Number of Complaints
Non-compliance with Qualifying Payment Amount (QPA) requirements	844
Late Payment after 30 days from the Independent Dispute Resolution (IDR) determination	664
Non-compliance with requirements to send Initial Payment or Notice of Denial of Payment within 30 days	253

Top 3 most common complaints against providers, facilities, and providers of air ambulance services

Type of Complaint	Number of Complaints
Surprise Billing for non-Emergency Services at an In-Network Facility	4,806
Surprise Billing for Emergency Services	2,363
Good Faith Estimate for Uninsured (or Self-Pay) Individuals	1,646

SECTION 5

What's next?

What to Expect with HPT in the Near Future

- Expect CMS to increase HPT enforcement actions for the remainder of CY2026 and throughout the remaining term of the current administration.
- Following the GAO report, CMS issued a RFI in 2025 seeking input on ways to improve compliance with the HPT rules and to ensure that complete, accurate, and meaningful pricing data was being provided.
- In December 2025, HHS proposed amendments to the Transparency in Coverage regulations (HPT equivalent for insurers and group health plans). These new rules would take effect in late 2026 or early 2027.
- Expect more detailed requirements in the future and more expansive price reporting obligations (including for other facility types)

What to Expect with the NSA in the Near Future

- There are a number of NSA provisions which have not yet been implemented. They primarily apply to health insurance companies.
- Enforcement will likely continue to remain higher than normal until the backlog of IDR claims and patient complaints are resolved.
- Continued litigation, maybe even a SCOTUS case?



SECTION 6

Conclusions & Discussion

Questions?

Tim Cahill – (614) 227-4274 – Tim.Cahill@Dinsmore.com

Joe Wheeler – (614) 227-4270 – Joseph.Wheeler@Dinsmore.com



dinsmore.com

© 2026 Dinsmore & Shohl LLP • All rights reserved • Legal Counsel

These materials have been prepared to provide information about the services we offer our clients. Readers should not act or refrain from acting based upon this information without consulting an attorney. This information is not legal advice and transmission or receipt of this information does not create an attorney-client relationship.