



## Departments Extend Enforcement Relief for the No Surprises Act

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On July 30, 2025, the Departments of Labor, Health and Human Services, and the Treasury (“the Departments”) released FAQ Part 71, which confirms:

- Enforcement relief for following prior guidance related to the Qualified Payment Amount (“QPA”) for items and services furnished before February 1, 2026; and
- The changes to the out-of-pocket maximum (“OOPM”) limits for plan years beginning on or after January 1, 2026.

### ■ Background

The No Surprises Act (“NSA”) was part of the Consolidated Appropriations Act, 2021 (“the CAA”). The NSA protects participants, beneficiaries, and enrollees in group health plans and individual health insurance from certain surprise out-of-network services.

As previously reported, the independent dispute resolution (“IDR”) process under the NSA has been subject to extensive litigation. Specifically, the presumption in favor of the QPA and the requirement that the IDR entity should choose the payment amount closest to the QPA has been the focus of much of the litigation. As a result of various court decisions, the Departments have released prior guidance indicating that the Departments will exercise enforcement discretion for plans and insurance issuers relying on prior guidance issued in 2021 on how the QPA should be calculated. This prior guidance was effective for items or services furnished prior to August 1, 2025.

### ■ What’s New?

#### NSA

As a court decision is still pending on the latest legal challenge to the QPA, the FAQ confirms that plans, issuers, and providers may continue to rely on the older 2021 QPA calculation methodology for items and services furnished before February 1, 2026, without risk of federal enforcement. States are encouraged to adopt a similar approach.

Plans must still provide related QPA disclosures and certify that the QPA was determined in compliance with applicable requirements, even if using the 2021 methodology.

### *OOPM*

In addition, the FAQ restated both the premium adjustment percentage and the OOPM for 2026 plan years. The maximum annual limitation on cost sharing for the 2026 plan year will be \$10,600 for self-only coverage, and \$21,200 for other than self-only coverage.

## Employer Action

Employers should ensure OOPM limits for 2026 do not exceed the maximums. For fully insured plans, carriers are responsible for the IDR process. For self-funded plans, employers should ensure their TPA is supporting compliance with the NSA, including the IDR process.