

United States Senate

WASHINGTON, DC 20510

November 20, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Dear Secretary Kennedy:

We write to bring urgent attention to the ongoing challenges faced by air ambulance providers and other emergency medical services in the implementation of the *No Surprises Act* (NSA). Each year, air ambulance teams treat and transport hundreds of thousands of critically ill and injured patients nationwide, serving as a vital link in our emergency care system. Congress recognized the unique nature of these services by including dedicated provisions for air ambulances in the NSA, yet significant regulatory and operational gaps remain that make it difficult for air ambulances to provide care to patients. We urge you to address these gaps in the final rule related to certain provisions of the *No Surprises Act* regarding the federal independent dispute resolution (IDR) process.

Enforcement and Accountability

Over the last several years, we have heard from air ambulance providers across the country about a lack of enforcement and accountability, despite the fact that the Department of Health and Human Services (HHS) has clear enforcement authority. For example, some insurers frequently miss statutory deadlines for interim and final payments, with no meaningful penalties or enforcement mechanisms in place. Notably, timelines for payment are not consistently within the law's specified time period, and according to the CMS portal, approximately 35% of IDR air ambulance claims filed in 2024 have not yet been resolved, which has led to severe cash flow crises for providers, base closures, and reduced access to emergency services.

Additionally, some insurers fail to engage in good-faith negotiations and have submitted higher offers during IDR than in open negotiations. Insurers have also exploited the 90-day "cool-down" period to further delay reimbursement. The lack of good-faith participation by insurers undermines the NSA's intent to foster in-network agreements. Insurers have been able to miss deadlines or fail to comply with IDR determinations without facing meaningful penalties. Robust enforcement measures, including financial penalties for late payments and allowing providers to seek remedies for noncompliance, are urgently needed.

Transparency and Accuracy of the Qualified Payment Amount (QPA)

We have also heard from providers that the insurer QPAs are below actual market rates. For instance, some insurers are relying on rates from services that are either rarely performed or never performed, which are also known as "ghost rates" and irrelevant contracts to artificially lower reimbursement benchmarks. In response, HHS may want to mandate full transparency and annual validation by CMS of QPA calculations and prohibit the use of ghost rates.

Medical Necessity and Prior Authorization Denials

Despite clear statutory intent outside of the *No Surprises Act*, insurers are increasingly denying claims for emergency air and ground transports based on medical necessity or lack of prior authorization—even when ordered by EMS or hospital physicians under emergency protocols. These denials contradict established standards, including the Emergency Medical Treatment and Labor Act (EMTALA), and create dangerous barriers to timely care. Medical necessity should be presumed for emergency transports, and prior authorization requirements must be prohibited for these services in accordance with federal law.

Excessive Documentation Requirements

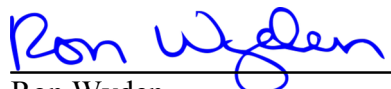
Providers are often required to obtain documentation from transferring or receiving hospitals before payment is issued, despite not having access to these records. This practice causes unnecessary delays and should be prohibited; insurers should accept claim attachments with initial submissions and not use documentation gaps to deny or delay payment.

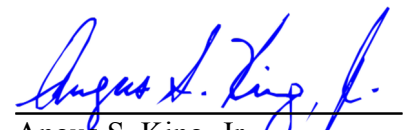
We urge the Department to act swiftly to address these issues and restore the NSA's promise of fair, timely, and transparent reimbursement for air ambulance services, along with its objective to protect patients from surprise medical bills. Strengthening these protections is essential to safeguarding patient access and the sustainability of critical care providers nationwide.

Sincerely,


Jeffrey A. Merkley
United States Senator


Susan M. Collins
United States Senator


Ron Wyden
United States Senator


Angus S. King, Jr.
United States Senator


Steve Daines
United States Senator


John Hickenlooper
United States Senator