If health insurers don't show up or their offer is $1 for a health care service, the problem may not be the process

THE BIG PICTURE:

- Health insurers are helping drive IDR volume before a dispute ever begins. They offer physicians unreasonable contract terms and payment rates that can make in-network participation untenable, often refusing to negotiate at all.
- Physicians who are out of network receive unsustainable initial payments based on QPAs that have been invalidated by the courts, with no practical alternative but to access the No Surprises Act IDR process to seek fair payment.
- Once in IDR, insurers often fail to participate or submit unreasonably low offers based on the same flawed QPAs. CMS data report **health insurer no-show (defaults) in nearly 25% of all disputes, QPAs below actual in-network rates, and offers of $1 or less.**
- Arbitrators can only pick the "more reasonable" offer when there are offers from BOTH parties. When insurers fail to submit an offer or offer an unreasonable amount like $1, they lose.
- The courts have rejected insurer payment practices and providers have prevailed in several lawsuits related to the No Surprises Act.
- In turn, Congress and the Administration should not reward insurer noncompliance, nonparticipation, and nonpayment with a legislative or regulatory bailout.

WHY IT MATTERS:

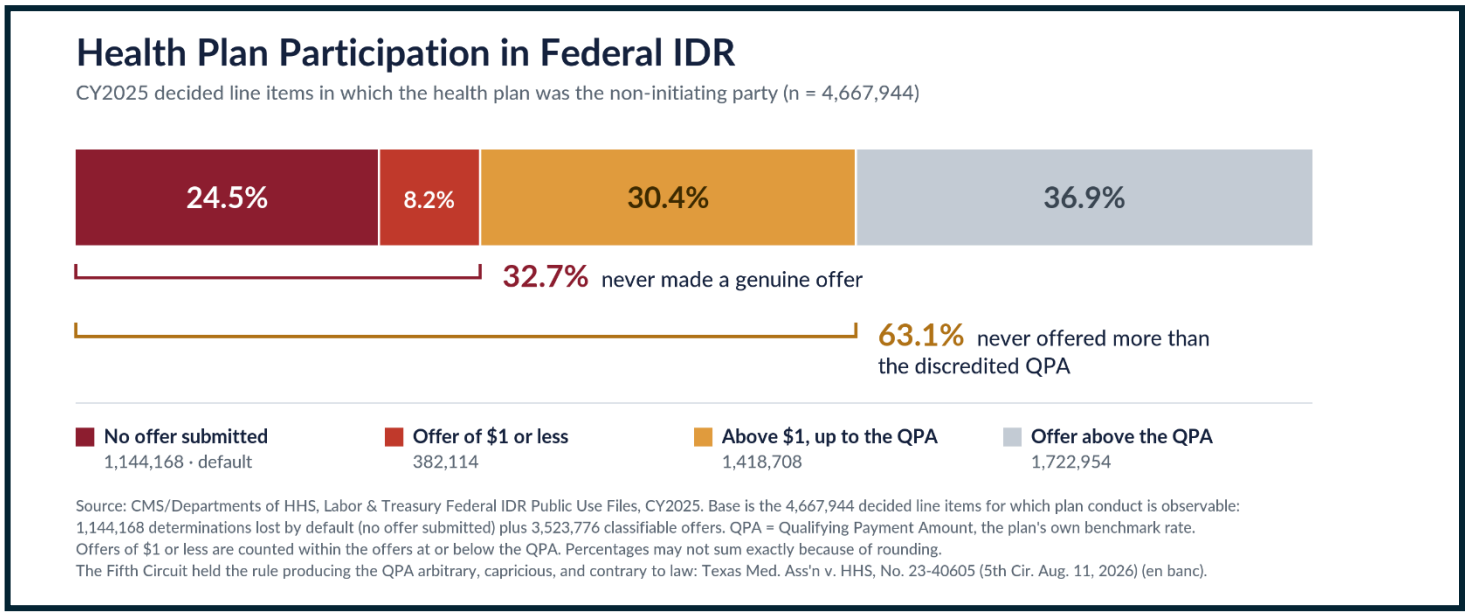
- Recent news coverage points to high claims volume, provider win rates, and a handful of large awards as evidence that the IDR process is being "gamed" by providers.
- But the data and market dynamics tell a different story: **insurers create out-of-network disputes through narrow networks, low QPAs, and unsustainable initial payments, then frequently no-show in IDR or submit unreasonably low offers.**
- Higher physician win rates are not surprising. They are the predictable result of weak payer participation, inadequate offers, and a system in which insurers may believe that even an adverse IDR award will not require prompt payment. **There are no consequences for the insurer.**

WHY PHYSICIANS ARE PREVAILING IN IDR:

- **Insurers are failing to participate in the IDR process, with limited consequences.** Insurers lost by default in 24.5% of CY25 line items.
- **Insurer defaults for 2025 exceeded one million line items.** Without effective award enforcement, defaulting can become a strategy: lose the case, but refuse to make payment.
- **Unreasonably low insurer offers are common.** Insurer offers in CY25 were less than or equal to the QPA for nearly 40% of line items (excluding defaults). Insurer offers of $1 or less occurred in 8.2% of line items. Low offers carry little downside if the insurer expects that an unfavorable determination may still be difficult or impossible to collect.

HIGH PHYSICIAN WIN RATE ≠ A SYSTEM THAT FAVORS PHYSICIANS:

If the insurer defaults, submits $1 or less, or relies on a low QPA, a higher win rate for the physician is an expected result. **If awards are not effectively enforced, insurers have less incentive to make reasonable offers or participate fully in the first place.**



COURTS POINT TO INSURER BEHAVIOR:

Insurers' practices have been highlighted in litigation losses: "It is highly plausible to infer that the Plaintiff **engages in a consistent practice of submitting lowball offers to out-of-network providers in an effort to maximize its profits."** - U.S. District Judge Thomas W. Thrash Jr., July 10, 2026.

THE QPA IS NOT A FAIR PAYMENT FOR CARE PROVIDED:

- **Insurers calculate QPAs in secret.** There is no independent way to "check the math" on rates that may be wrong. Only one QPA audit has been published to date, and it found "the issuer failed to calculate the QPA in accordance with then-applicable rules…" In fact, the courts recently ruled that key parts of the current QPA methodology are invalid.

WHAT CONGRESS SHOULD DO - TARGET BAD ACTORS AND ENFORCE THE RULES:

- **Identify problems.** Use CMS data to regularly review and identify outlier providers, insurers, and IDREs.
- **Probe whether insurer defaults and low offers are a deliberate strategy.** Examine whether financial incentives drive insurers to default, submit low QPAs, and low offers because they believe an adverse IDR award can be delayed or left unpaid without meaningful enforcement consequences.
- **Publish and audit true outliers.** Require CMS to validate distributions, correct implausible data, and audit repeated extreme offers or awards on both sides.
- **Enforce payer obligations.** Require accurate QPA and eligibility information, good-faith open negotiation, participation in IDR, and payment within 30 days after a determination. Give federal agencies effective tools to address repeated nonpayment of IDR awards.
- **Let the 2026 IDR Operations Rule work.** The May 2026 final rule strengthens transparency, communications and good-faith negotiation and reduces ineligible claims by standardizing remittance-code requirements.

THE BOTTOM LINE:

- Congress and the Administration should focus on preserving the statute's balanced criteria, enforce deadlines in the law, and attach real consequences to insurer non-participation and low-dollar offers.
- Insurers should not be rewarded for defaulting or submitting low QPAs and offers when they may believe there is no effective consequence if they lose and fail to pay the award.
- Give plans a reason to negotiate and resolve disputes before arbitration — exactly what Congress designed the NSA to do.

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American Society of Anesthesiologists

American College of Emergency Physicians

American College of Radiology