



Concerns regarding inflation, the future of the economy, and the impact of the rise and fall of COVID cases have created a volatile atmosphere on the Capitol Hill, and that impacts the business of healthcare on all fronts. Our advocacy and regulatory team continues to work on fighting to ensure our physician clients are paid fairly for their services and that they clients continue to have access to the quality care that they provide.

Join us in our ongoing lobbying efforts – so that your voice can be heard. Not signed up? It's easy to become an advocate, simply **text ZOTEC to 52886** or go to [Zotecpac.com](https://www.zotecpac.com).

~ Mark Isenberg, EVP, Healthcare Advocacy

Q2 Advocacy Update

What's happening with the *No Surprises Act*?

Since the *No Surprises Act* (NSA) was signed into law in late 2020 (with an effective date of Jan. 1, 2022), and then the Department of Health and Human Services (HHS), Labor and Treasury issued the Requirements Related to Surprise Billing; Part 2 in September of 2021, there has been confusion and more than a bit of panic. A recent article in [Fierce Healthcare](#) explained that providers are asking HHS for more time to implement the Good Faith Estimate (GFE) requirements, claiming that HHS doesn't understand the amount of infrastructure needed to meet the January 1, 2023, deadline.

Also, the five (5) separate federal court lawsuits, including cases by ACR/ASA/ACEP, the TX Medical Society and yet another by the AMA & AHA) that were filed after the "Tri Depts" (Depts. of Labor, HHS and Treasury) issued Interim Final Rules (IFR Part 2) in Sept. 2021 governing the IDR process have been on hold since the US District Court in TX in February 2022 found that IFR Part 2 to be contrary to the NSA and invalidly issued by the Tri Depts.

Since that time, the US DOJ has represented to various courts in these cases that new final rules will be issued in August 2022 and these new final rules will eliminate the basis for the existing cases. While that is yet to be seen, the plaintiffs in these cases stand ready to take their cases forward should the new final rules not reflect the TX federal court's very favorable decision.

Notice of Proposed Rulemaking

Currently, the NSA rule provisions for a GFE for insured patients and "other provisions" regarding enhanced EOBs and insurance cards are now at the Office of Management and Budget (OMB) for clearance and issuance. This is setting the stage for a notice of proposed rulemaking (NPRM) with a 60-day comment period, and then a final rule, perhaps for a January 2023 implementation. We are not sure about timing and details, but we will continue to monitor the provisions and update you when we have confirmation. Finally, HHS previously announced that they would hold enforcement in abeyance for "co-providers" on the GFE provisions until Jan. 1, 2023, and enforcement of the GFE provision for both "conveying providers" (those hospitals or



practices that schedule patient services) and co-providers (those who provide ancillary services to the conveying facilities and practices) will be in effect after 2022.

The Independent Dispute Resolution (IDR) and Qualifying Payment Amount (QPA) Reporting Project

There is a *No Surprises Act* Implementation Task Force (NSA ITF) between ACEP and EDPMA, which is actively monitoring the federal NSA implementation. Although it is still quite early in the 2022 NSA implementation, the NSA ITF conducted an important initial survey of out-of-network (OON) payments focused around one critical issue—the Qualifying Payment Amount (QPA). The NSA ITF is calling this (very limited) survey: The QPA Reporting Project (the Project).

- Zotec is participating in this survey, which will evaluate whether major payers are following the law by providing QPAs in writing for each CPT code paid or denied.
- We are capturing the Remittance Advice Remark Codes (RARCs) in order to determine the degree of consistency and reasonableness in explaining the payments.
- The QPA Project data is currently being analyzed and is expected to be released for stakeholders to use in both regulatory and legislative advocacy.

Additional NSA Resources:

- [No Surprises Resources](#)
- [Independent Dispute Resolution](#)

Federal Calls to Action

HR 7995 – Gold Card Act 2022 – On 6/9 Rep. Mick Burgess (R-TX), Rep Vicente Gonzalez (D-TX), and Rep Ronny Jackson (R-TX) introduced this resolution, which was subsequently referred to the Committee on Ways and Mand and also to the Committee on Energy and Commerce.

Prior authorization is a time-consuming process that burdens physicians, physician practices, and hospitals while diverting valuable resources away from direct patient care. HR 7995 exempts qualifying physicians from prior authorization requirements under Medicare Advantage (providing for a “Gold Card” status for physicians that consistently meet prior authorization requirements).

We thank everyone that took action on this resolution; we continue to monitor its progress.

Stop Medicare Sequestration Cuts! – We started summer (6/21) with a call to action sent to all members of Congress to stop the 1% sequestration cut due on July 1.

- The first 1% Medicare sequester cut took effect this past April 1, and that cut increased to the full 2% on July 1. These sequestration cuts were delayed last year by Congress to

help providers lessen the financial impact from the pandemic. Many advocates took action; however Congress did not take action and the remaining 1% cut went into effect on July 1, and scheduled.

- With the release of the 2023 Medicare Physician Fee Schedule Proposed Rule, on 7/7/22, that will implement new Medicare cuts, as they are mandated by law, unless Congress once again steps in to stop the cuts. We will continue to advocate around Medicare cuts through the end of the year.

State Calls to Action

This quarter we sent out six separate calls to action directed at various states.

CA - [Restore Medi-Cal Reimbursement Rates](#) – In the last decade, California’s Medi-Cal program enrollment has grown by 70 percent and provides care for 1 in 3 Californians, totaling nearly 14 million enrollees.

- In 2011 California reduced Medi-Cal provider rates by 10% and in the last decade has not restored them. These cuts have impacted many life-saving services.
- Today the State’s fiscal foundation is strong. Initial projections estimate a \$45.7 billion surplus, and recent statements by the Legislative Analyst’s Office indicate that the surplus is likely to exceed that number by **\$6 - \$10 billion**. The State should use the opportunity at hand to restore a decade old reduction.
- *To date the state hasn’t addressed this issue. We will continue to monitor.*

MN – HF 447 (Companion - SF 989) – [Health Insurance Coverage for Breast Cancer Screenings](#)

- This legislation will allow Minnesotans greater access to essential women’s health care at a time when it is estimated that **nearly half** of annual breast cancer screenings and other diagnostic studies were delayed due to the COVID-19 pandemic.
- *3/22 - Referred to Health, Finance, and Policy. We will continue to monitor this legislation.*

NY-S7647 – [Coverage for Dense Breast Ultrasound](#)

- Requires health insurance coverage for ultrasound screenings if the patient has dense breast tissue, allowing a notice of dense breast tissue to be the determination of medical necessity for coverage of a breast ultrasound.
- *5/3/22 - Passed Senate Health Committee 14-0; reported to Finance Committee.*

TN – HB 2544 (Companion – SB 2771) – [Breast Cancer Screening Examinations](#)

- Provides increased access for patients and requires coverage for additional diagnostic procedures.
- *4/27 – Past Senate/House.*
- *5/25 – Signed by Governor.*



NC – HB 149 Omnibus Healthcare Bill – [NC Health Works/SAVE Act](#)

- *We sent out two calls to action on this legislation. The first was sent on 5/31 to members of the Senate, and again on 6/7 members of the House.*
- The Senate passed this sweeping bill; however, the SAVE Act provision is very concerning as it would expand APC scope of practice without physician supervision and mandate that written estimates of the cost of care be provided to patients in all care settings including the emergency dept. in potential violation of federal EMTALA laws.
- We asked our Advocacy base to let House members know that this portion of the bill needs to be removed and re-evaluated.
- *6/2 This bill was referred to the Committee on Rules, Calendars, and Operations of the House. We will continue to monitor this bill.*
- The bill did not pass during the short session which ended on July 1, 2022, but the legislature will continue to meet through the end of the year until the long session begins in 2023 and the bill could come back at any time, according to NC Medical Society.

Lobbying/Meetings/Presentations

5/2/22 – Mark Isenberg, Ed Gaines, and Jennifer Fox, met with Greg Brooks, Sen. Brad Wenstrup’s (R-OH) Chief of Staff, regarding Medical Debt.

5/9/22 - Mark Isenberg met with North Carolina Medicaid policy advisor Marckia Hayes to discuss providers’ participation in NC Tracks program and ensuring that NC providers’ government issued IDs (i.e., driver’s license, passport, etc.) match their application.

5/12/22 - Lonnie Johnson participated on a panel for Healthcare Business Management Association’s (HBMA) No Surprises Act Webinar Series Part 1: Good Faith Estimate.

6/28/22 – Mark Isenberg met with Alec Aramanda and Emily Felder, staff member and former staff member with the House Energy and Commerce Committee.