



# No Surprises Quick Reference Guide

## 2022 Billing & IDR Rule

R1 Regulatory Affairs & Regulatory Compliance

On August 26, 2022, the U.S. Departments of Health & Human Services, Labor, and the Treasury [finalized](#) certain regulations implementing the No Surprises Act, updating and changing portions of two interim final rules published in [July](#) and [October](#) 2021. The final regulations increase transparency by requiring payers to disclose additional information about the qualifying payment amount (“QPA”) and downcoded services. They also update requirements for certified independent dispute resolution (“IDR”) entities to consider when making a payment determination.

Issue	2021 Interim Final Rules	2022 Final Rule
QPA Calculation Disclosures		
<i>Downcoding</i>	No definition of “downcode.”	“Downcode” is defined as a payer’s (1) alteration of a service code, or (2) alteration, addition, or removal of a modifier, if the changed code or modifier is associated with a lower QPA than the service code or modifier billed by the provider.
	The plan or issuer is not required to calculate the patient’s cost sharing using a QPA for the service code submitted by the provider or facility. The cost sharing can be calculated using a QPA for a downcoded service code.	If a QPA is based on a downcoded service code or modifier, a payer must provide: <ul style="list-style-type: none"><li>• A statement that the billed service code or modifier was downcoded;</li><li>• An explanation of why the claim was downcoded, including a description of which service codes were altered and/or which modifiers were altered, added, or removed; and</li><li>• The amount that would have been the QPA had the service code or modifier not been downcoded.</li></ul>
<i>Timing of Disclosure</i>	The payer has 30 calendar days from the date it receives a clean claim to determine whether the services are covered and send the provider an initial payment or a notice of denial of payment.	With an initial payment or notice of denial of payment, a payer must acknowledge and explain its downcoding, and provide the QPA for both the downcoded service and the billed service code.

Issue	2021 Interim Final Rules	2022 Final Rule
<b>Payer Portals</b>		
<i>Notice of Initiation of Open Negotiation</i>	The payer must provide contact information, including a telephone number and email address, for the appropriate office or person to initiate open negotiations for purposes of determining an amount of payment (including cost sharing) for such item or service.	Clarifies that a payer cannot refuse to accept the standard notice of initiation of open negotiation from a provider because the provider did not utilize the payer's online portal. If a provider sends the standard notice of initiation of open negotiation to the email address identified by the payer in the notice of denial of payment or initial payment, it satisfies the regulatory requirement to provide notice.
<b>Independent Dispute Resolution Process</b>		
<i>Payment Determination</i>	The certified IDR entity must select the offer closest to the QPA unless it determines that credible additional information clearly demonstrates that the QPA is materially different from the appropriate out-of-network rate. If the offers are equally distant from the QPA, the certified IDR entity must select the offer that best represents the value of the item or services.	In making a payment determination, the certified IDR entity must select the offer that best represents the value of the item or services. It must consider the QPA and additional permitted information submitted by a party in support of its offer. The certified IDR entity should evaluate whether the information is credible and relates to a submitted offer. Information that is not credible, does not relate to either offer, and/or is duplicative and should not be given weight.
<i>Double Counting</i>	N/A	The certified IDR entity should not give weight to additional permitted information if it is already accounted for by any of the other information submitted by the parties, to avoid weighting the same information twice.
<i>Written Decision</i>	The certified IDR entity must explain its determination in a written decision submitted to the parties. If the certified IDR entity does not choose the offer closest to the QPA, the written decision must include an explanation of the credible information that the certified IDR entity determined demonstrated that the QPA was materially different from the appropriate out-of-network rate.	The certified IDR entity's written decision must include an explanation of their determination, including what information it determined demonstrated that the offer selected is the offer that best represents the value of the qualified IDR item or service, including the weight given to the QPA and any additional credible information. If the certified IDR entity relies on credible information, the written decision must include an explanation of why the information was not reflected in the QPA.