

Three Arguments, Hearings Benefits Attorneys Should Watch in February

Media Mentions

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This month, a Fifth Circuit panel will hear oral arguments in the federal government’s appeal seeking reversal of a Texas court decision that invalidated federal policies governing an arbitration system between out-of-network providers and health insurers. The policies were established by Congress in the No Surprises Act (NSA).

Bracewell’s **Carrie Douglas** [discussed with Law360 the NSA and its impact on this case](#), saying that the Fifth Circuit appeal will “significantly impact the QPA calculations” at issue in NSA arbitrations. Douglas added that this is an important issue for self-funded employee benefit plans, where an employer takes on the costs of benefit claims directly, typically with the help of an insurance plan administrator.

“The majority of the claims that end up in the NSA process are related to patient encounters involving self-funded products,” Douglas said.

The NSA went into effect in January 2022, but federal agencies didn’t finalize rules creating the arbitration system subject to the law until August 2022. The law and the rules are designed to help out-of-network providers and insurers hammer out payment disputes, including for common situations where surprise bills might appear such as when a patient goes to an in-network facility like a hospital but is treated by an out-of-network doctor.

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