
**In the United States Court of Appeals
for the Fifth Circuit**

No. 26-40316

BLUE CROSS BLUE SHIELD OF TEXAS,
PLAINTIFF-APPELLANT,

v.

HALOMD LLC, ET AL.,
DEFENDANT-APPELLEE

On Appeal from the U.S. District Court
for the Eastern District of Texas
Case No. 5:25-cv-00132-RWS

APPELLANT'S OPENING BRIEF

Jessica A. Lee
KIRKLAND & ELLIS LLP
4550 Travis Street
Dallas, TX 75205
Telephone: (214) 972-1770

Aaron L. Nielson
Rachel L. Daley
Paige S. Fish
KIRKLAND & ELLIS LLP
401 W. 4th Street
Austin, TX 78701
Telephone: (512) 678-9100

Counsel for Plaintiff-Appellant

September 18, 2026

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made so the judges of this Court may evaluate possible disqualification or recusal.

APPELLANT: Blue Cross Blue Shield of Texas.

ATTORNEYS FOR APPELLANT:

Jessica A. Lee
Kirkland & Ellis LLP
4550 Travis Street
Dallas, TX 75205
Telephone: (214) 972-1770

Aaron L. Nielson
Rachel L. Daley
Paige S. Fish
Kirkland & Ellis LLP
401 W. 4th Street
Austin, TX 78701
Telephone: (512) 678-9100

Jamie R. Kurtz
Nathaniel J. Moore
Kyle D. Nelson
Jackie Fielding
John K. Harting
Joseph T. Janochoski
Robins Kaplan LLP
800 LaSalle Ave. #2800
Minneapolis, MN 55402
Telephone: (612) 349-8500

Kelly B. Tidwell
Geoffrey P. Culbertson
Patton, Tidwell & Culbertson
2800 Texas Blvd., PO Box 5398
Texarkana, TX 75505
Telephone: (903) 792-7080

APPELLEES: HaloMD LLC, Alla LaRoque, and Scott LaRoque.

ATTORNEYS FOR APPELLEES:

Jonah Retzinger
King & Spalding, LLP
633 W. 5th Street
Los Angeles, CA 90071
Telephone: (213) 443-4355

William David Carter, Sr.
Mercy Carter, LLP
5520 Christus Drive
Texarkana, TX 75503
Telephone: (903) 794-9419

Michael Alan Swartzendruber
Norton Rose Fulbright US, LLP
2200 Ross Avenue
Dallas, TX 75201
Telephone: (214) 855-8200

s/ Aaron L. Nielson

Counsel for Appellant

STATEMENT REGARDING ORAL ARGUMENT

Blue Cross Blue Shield of Texas respectfully submits that oral argument may assist the Court's resolution of this appeal. This case presents questions of first impression regarding whether a narrow judicial-review bar in the federal No Surprises Act for payment-amount determinations also strips courts of jurisdiction over claims alleging widespread healthcare fraud, and whether Texas Senate Bill 1264, which does not include a jurisdiction-stripping provision, nevertheless also implicitly precludes such litigation. Given the importance of these questions, oral argument is warranted.

TABLE OF CONTENTS

	Page
CERTIFICATE OF INTERESTED PERSONS.....	i
STATEMENT REGARDING ORAL ARGUMENT.....	iii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES.....	vi
INTRODUCTION	1
STATEMENT OF JURISDICTION	3
STATEMENT OF ISSUES	4
STATEMENT OF THE CASE AND FACTS.....	5
A. The No Surprises Act.....	5
B. Senate Bill 1264	11
C. HaloMD’s Fraudulent Scheme	14
D. Proceedings Below	18
SUMMARY OF ARGUMENT	20
STANDARD OF REVIEW	22
ARGUMENT.....	23
I. The NSA Does Not Strip Jurisdiction Over BCBSTX’s Case.....	23
A. Nothing in the NSA Bars BCBSTX’s Claims.	23
B. The NSA Cannot Preclude BCBSTX’s Other Theories.	37
C. The District Court’s Analysis Fails.	41
II. S.B. 1264 Also Does Not Strip Jurisdiction Over This Case.	55
A. S.B. 1264 Preserves Jurisdiction Over BCBSTX’s Claims	55

B. The District Court’s Analysis Again Fails.	62
III. At a Minimum, Dismissal Should Be Without Prejudice.	67
CONCLUSION	68
CERTIFICATE OF SERVICE	
CERTIFICATE OF COMPLIANCE	

TABLE OF AUTHORITIES

Cases	Page(s)
<i>A. Duda & Sons Co-op. Ass’n v. United States</i> , 495 F.2d 193 (5th Cir. 1974), <i>withdrawn on other grounds</i> , 504 F.2d 970 (5th Cir. 1974)	49, 50
<i>Anthology, Inc. v. Tarrant Cnty. Coll. Dist.</i> , 136 F.4th 549 (5th Cir. 2025)	44
<i>Arbaugh v. Y&H Corp.</i> , 546 U.S. 500 (2006)	24
<i>AT&T Technologies, Inc. v. Comm’ns Workers of Am.</i> , 475 U.S. 643 (1986)	43
<i>Bank of Saipan v. CNG Fin. Grp.</i> , 380 F.3d 836 (5th Cir. 2004)	52
<i>Blue Cross Blue Shield of Tex. v. Juneau</i> , 114 S.W.3d 126 (Tex. App. – Austin 2003, no pet.)	66
<i>Bowe v. United States</i> , 607 U.S. 13 (2026)	24, 29, 44
<i>Browning v. Prostok</i> , 165 S.W.3d 336 (Tex. 2005)	65, 66
<i>Castro v. United States</i> , 540 U.S. 375 (2003)	23
<i>City of Milwaukee v. Illinois</i> , 451 U.S. 304 (1981)	47
<i>Colo. River Water Conserv. Dist. v. United States</i> , 424 U.S. 800 (1976)	45
<i>Corey v. New York Stock Exchange</i> , 691 F.2d 1205 (6th Cir. 1982)	47

<i>Crocker v. Austin</i> , 115 F.4th 660 (5th Cir. 2024).....	22
<i>Dean v. United States</i> , 556 U.S. 568 (2009).....	26
<i>Edmiston v. Harris Cty.</i> , 2012 WL 3612436 (Tex. App. — Houston [14th Dist.] Aug. 23, 2012, no pet.)	65
<i>Electrostim Med. Services, Inc. v. Health Care Serv. Corp.</i> , 962 F. Supp. 2d 887 (S.D. Tex. 2013)	57
<i>First Options of Chi., Inc. v. Kaplan</i> , 514 U.S. 938 (1995).....	33, 44, 48
<i>Fort Worth Trans. Auth. v. Rodriguez</i> , 547 S.W.3d 830 (Tex. 2018).....	61
<i>Golfis v. Houllion</i> , 2016 WL 6236842 (Tex. App. — Dallas Oct. 25, 2016, no pet.)	54
<i>Gottlieb v. Carnival Corp.</i> , 436 F.3d 335 (2d Cir. 2006)	44
<i>Government Employees Insurance Co. v. Patel</i> , 166 F.4th 280 (2d Cir. 2026)	53, 54
<i>Guardian Flight LLC v. Health Care Service Corp.</i> , 140 F.4th 271 (5th Cir. 2025), cert. denied, 146 S.Ct. 1493 (2026)	45
<i>Guardian Flight, LLC v. Med. Evaluators of Tex. ASO, LLC</i> , 140 F.4th 613 (5th Cir. 2025).....	49
<i>Guardianship of Fairley</i> , 650 S.W.3d 372 (Tex. 2022).....	56
<i>Gulf Petro Trading Co. v. Nigerian Nat’l Petro. Corp.</i> , 512 F.3d 742 (5th Cir. 2008)	19, 47, 48, 49, 50, 51, 52

<i>Harward v. City of Austin</i> , 84 F.4th 319 (5th Cir. 2023) (per curiam)	38, 39, 40, 42
<i>Houston Ref., LP v. United Steel, Paper & Forestry, Rubber, Mfg.</i> , 765 F.3d 396 (5th Cir. 2014)	44
<i>In re Jensen</i> , 946 F.2d 369 (5th Cir. 1991)	55
<i>In re K.M.L.</i> , 443 S.W.3d 101 (Tex. 2014)	56
<i>Kucana v. Holder</i> , 558 U.S. 233 (2010)	21, 34, 36, 43, 50
<i>La Union Del Pueblo Entero v. Abbott</i> , 151 F.4th 273 (5th Cir. 2025), cert. denied (June 29, 2026)	41
<i>Lomax v. Ortiz-Marquez</i> , 590 U.S. 595 (2020)	42
<i>Maypole v. Acadian Ambulance Serv., Inc.</i> , 647 S.W.3d 533 (Tex. App. – Dallas 2022, no pet.)	59, 64
<i>McNary v. Haitian Refugee Ctr., Inc.</i> , 498 U.S. 479 (1991)	21, 26, 27, 28, 53
<i>Middleton v. Tex. Power & Light Co.</i> , 185 S.W. 556 (Tex. 1916)	59
<i>Mod. Orthopaedics of NJ v. Primera Blue Cross</i> , 2025 WL 3063648 (D.N.J. Nov. 3, 2025)	49
<i>Mullin v. Doe</i> , 146 S.Ct. 2121 (2026)	27
<i>N.W. Airlines, Inc. v. Trans. Workers Union of Am., AFL-CIO</i> , 451 U.S. 77 (1981)	46

<i>Nat’l Institutes of Health v. Am. Public Health Ass’n</i> , 145 S.Ct. 2658 (2025).....	42
<i>NuStar Energy, LP v. Hancock</i> , 731 S.W.3d 288 (Tex. 2026).....	64
<i>Olivier v. City of Brandon</i> , 607 U.S. 552 (2026).....	40, 41
<i>In re Oswego Barge Corp.</i> , 664 F.2d 327 (2d Cir. 1981)	47
<i>Porter v. Nussle</i> , 534 U.S. 516 (2002).....	29
<i>Ramos-Portillo v. Barr</i> , 919 F.3d 955 (5th Cir. 2019).....	29
<i>Rapid Settlements, Ltd. v. SSC Settlements, LLC</i> , 251 S.W.3d 129 (Tex. App. — Tyler 2008, no pet.)	65
<i>Rein v. Providian Fin. Corp.</i> , 270 F.3d 895 (9th Cir. 2001).....	52
<i>Robledo v. United States</i> , 147 F.4th 515 (5th Cir. 2025).....	22
<i>Salinas v. R.R. Ret. Bd.</i> , 592 U.S. 188 (2021).....	36
<i>SAS Inst., Inc. v. Iancu</i> , 584 U.S. 357 (2018).....	23, 24
<i>Sekhar v. United States</i> , 570 U.S. 729 (2013).....	30
<i>Shular v. United States</i> , 589 U.S. 154 (2020).....	28
<i>Spivey v. Chitimacha Tribe of LA</i> , 79 F.4th 444 (5th Cir. 2023).....	67

<i>State v. Durham</i> , 860 S.W.2d 63 (Tex. 1993).....	67
<i>Steel Co. v. Citizens for a Better Env't</i> , 523 U.S. 83 (1998).....	44
<i>Tejas Motel, LLC v. City of Mesquite by & through Bd. of Adjustment</i> , 63 F.4th 323 (5th Cir. 2023).....	48
<i>Tex. Ass'n of Bus. v. Tex. Air Control Bd.</i> , 852 S.W.2d 440 (Tex. 1993).....	59
<i>Tex. Med. Ass'n v. U.S. Dep't of Health & Hum. Servs.</i> , --F.4th--, 2026 WL 2322331 (5th Cir. Aug. 11, 2026) (en banc) (per curiam)	5
<i>Tex. Med. Res., LLP v. Molina Healthcare of Tex., Inc.</i> , 659 S.W.3d 424 (Tex. 2023).....	62
<i>Texas Brine Co. v. American Arbitration Association</i> , 955 F.3d 482 (5th Cir. 2020).....	47, 48, 49, 50
<i>Texas Dep't of Protective & Regul. Servs. v. Mega Child Care, Inc.</i> , 145 S.W.3d 170 (Tex. 2004).....	63
<i>Trahan v. Superior Oil Co.</i> , 700 F.2d 1004 (5th Cir. 1983).....	50
<i>Unicolors, Inc. v. H&M Hennes & Mauritz, LP</i> , 595 U.S. 178 (2022).....	16
<i>United States v. Diaz-Gomez</i> , 680 F.3d 477 (5th Cir. 2012).....	61
<i>United States v. Palomares</i> , 52 F.4th 640 (5th Cir. 2022).....	28
<i>Utah v. Evans</i> , 536 U.S. 452 (2002).....	23

<i>Util. Air Regul. Grp. v. EPA</i> , 573 U.S. 302 (2014).....	29
<i>Va. Uranium, Inc. v. Warren</i> , 587 U.S. 761 (2019).....	42
<i>Visa Inc. v. Sally Beauty Holdings, Inc.</i> , 651 S.W.3d 278 (Tex. App. – Fort Worth 2021, pet. denied)	40
<i>W. Va. Univ. Hosps., Inc. v. Casey</i> , 499 U.S. 83 (1991).....	32
<i>Williams v. Glickman</i> , 936 F. Supp. 1 (D.D.C. 1996)	55
Constitution	
Tex. Const. art. I, §13.....	59
Statutes	
5 U.S.C. §805.....	32
8 U.S.C. §1160(e)	27
9 U.S.C. §10(a)	11, 30, 31
18 U.S.C. §§1961-68	3
28 U.S.C. §1291.....	4
28 U.S.C. §1331.....	3, 24
28 U.S.C. §1332.....	3
28 U.S.C. §1341.....	39
38 U.S.C. §511(a).....	32
42 U.S.C. §300gg-111(a)(1)	5, 6
42 U.S.C. §300gg-111(a)(2)	5

42 U.S.C. §300gg-111(a)(3)(I)	6
42 U.S.C. §300gg-111(a)(3)(K)	16
42 U.S.C. §300gg-111(a)(5)	5
42 U.S.C. §300gg-111(b)(1)	5, 6
42 U.S.C. §300gg-111(c)	5
42 U.S.C. §300gg-111(c)(1)	5
42 U.S.C. §300gg-111(c)(1)(A)	6
42 U.S.C. §300gg-111(c)(1)(B)	6
42 U.S.C. §300gg-111(c)(2)(A)	8
42 U.S.C. §300gg-111(c)(2)(B)	6
42 U.S.C. §300gg-111(c)(5)	10, 29, 30, 37
42 U.S.C. §300gg-111(c)(5)(A)	10, 11, 25, 26, 36
42 U.S.C. §300gg-111(c)(5)(B)	10, 29, 30
42 U.S.C. §300gg-111(c)(5)(C)	29, 30
42 U.S.C. §300gg-111(c)(5)(E)(i)	11, 26, 28, 30, 31
42 U.S.C. §300gg-111(c)(5)(E)(i)(I)	31
42 U.S.C. §300gg-111(c)(5)(E)(i)(II)	25, 31
42 U.S.C. §300gg-111(c)(5)(F)	10, 30
42 U.S.C. §300gg-112	6
42 U.S.C. §1320f-7(2)	32
Tex. Civ. Prac. & Rem. Code §16.004(a)(4)	63
Tex. Ins. Code §1467.002(1)	12, 16

Tex. Ins. Code §1467.002(2).....	12, 16
Tex. Ins. Code §1467.002(3).....	12, 16, 17
Tex. Ins. Code §1467.004	2, 14, 21, 56, 57, 64
Tex. Ins. Code §1467.050	12
Tex. Ins. Code §1467.081	12
Tex. Ins. Code §1467.082	12
Tex. Ins. Code §1467.083	12
Tex. Ins. Code §1467.083(a).....	13, 60, 62
Tex. Ins. Code §1467.083(b)	61
Tex. Ins. Code §1467.084	12
Tex. Ins. Code §1467.084(a).....	12
Tex. Ins. Code §§1467.084(a)(2)(A)-(D)	12
Tex. Ins. Code §1467.084(d)	13
Tex. Ins. Code §1467.085	12
Tex. Ins. Code §1467.085(b)	65
Tex. Ins. Code §1467.086	12
Tex. Ins. Code §1467.086(a).....	13
Tex. Ins. Code §1467.087	12
Tex. Ins. Code §1467.087(a).....	13
Tex. Ins. Code §1467.088	12
Tex. Ins. Code §1467.088(a).....	64
Tex. Ins. Code §1467.088(a)(1)	13

Tex. Ins. Code §1467.088(a)(2)	60
Tex. Ins. Code §1467.088(c)	64, 67
Tex. Ins. Code §1467.089	12, 14
Tex. Ins. Code §1467.089(b)	57, 58, 60
Tex. Ins. Code §1467.089(c)	58
Tex. Ins. Code §1467.0575	58

Rules

Fed. R. Civ. P. 8(a)(3)	55
Fed. R. Civ. P. 12(b)(1)	22, 66

Regulations

45 C.F.R. §149.510(b)(2)(iii)	7
45 C.F.R. §149.510(b)(2)(iii)(A)(8)	9, 35
45 C.F.R. §149.510(c) (2024)	9
45 C.F.R. §149.510(c)(1)	35
45 C.F.R. §149.510(c)(1)(i)	8
45 C.F.R. §149.510(c)(1)(ii)	8
45 C.F.R. §149.510(c)(1)(iv)	8
45 C.F.R. §149.510(c)(2)	8, 35
45 C.F.R. §149.510(c)(2)(i)	9, 36
45 C.F.R. §149.510(c)(2)(ii)	35
45 C.F.R. §149.510(c)(5)	10
45 C.F.R. §149.510(c)(5)(i)	10, 43

45 C.F.R. §149.510(c)(5)(ii).....	43
87 Fed. Reg. 52,618 (Aug. 26, 2022).....	14
91 Fed. Reg. 33,900 (June 4, 2026)	6, 8, 30, 35, 36, 42, 43
28 Tex. Admin. Code §21.5021(g)(3).....	61
Other Authorities	
<i>Injunction as Equitable Remedy to Redress Fraud,</i> 37 AM. JUR. 2D FRAUD & DECEIT §356 (2026).....	54
Anna Wilde Mathews & Tom McGinty, <i>Medical Billing Arbitration Paid Out \$15 Billion to Providers in</i> <i>Surprise Bill Disputes</i> , WALL ST. J. (July 22, 2026)	14
BLACK’S LAW DICTIONARY (12th ed. 2024)	51
CBO, <i>Estimate for Divisions O Through FF, H.R. 133, Consolidated</i> <i>Appropriations Act, 2021</i> (Jan. 14, 2021)	33
CMS, <i>Independent Dispute Resolution Reports</i> (July 22, 2026).....	14
H.R. Rep. No. 116-615 (Dec. 2, 2020)	5
HHS, Office of Health Policy, <i>Evidence on Surprise Billing: Protecting Consumers with the No</i> <i>Surprises Act</i> (Nov. 22, 2021).....	33
Jack Hoadley & Kennah Watts, <i>Spending on IDR Process Pushes No Surprises Act Costs to More</i> <i>than \$22.4 Billion Over Just Four Years</i> , HEALTH AFFS. FOREFRONT (Aug. 26, 2026)	10
RESTATEMENT (SECOND) OF JUDGMENTS (1982)	50

Sarah Kliff <i>et al.</i> , <i>Trump Administration Says Surprise Billing Law Is Being 'Gamed' by Doctors</i> , N.Y. TIMES (July 22, 2026)	1
Tara Bannow, <i>How a Texas Couple Is Getting Rich Off Out-Of-Network Medical Bills</i> , STAT NEWS (Mar. 18, 2026)	1
13E WRIGHT & MILLER'S FEDERAL PRACTICE & PROCEDURE §3609 (3d ed. 1998)	24

INTRODUCTION

Congress and the Texas Legislature enacted the No Surprises Act (“NSA”) and its Texas analogue, Senate Bill 1264 (“S.B. 1264”), to lower healthcare costs. Unfortunately, the opposite has happened. As the Centers for Medicare and Medicaid Services (“CMS”) have explained, “the system is being gamed.” Sarah Kliff *et al.*, *Trump Administration Says Surprise Billing Law Is Being ‘Gamed’ by Doctors*, N.Y. TIMES (July 22, 2026), <https://tinyurl.com/372um89u>. Third-party billing companies flood the Independent Dispute Resolution (“IDR”) systems created by the NSA and S.B. 1264 with hundreds of thousands of ineligible claims, resulting in massive fraud.

Perhaps the most notorious of these companies is HaloMD, LLC, which, along with its owners Alla and Scott LaRoque (together, “HaloMD”), “pulls in over \$1 billion a year” by “exploit[ing]” laws like the NSA and S.B. 1264. Tara Bannow, *How a Texas Couple Is Getting Rich Off Out-Of-Network Medical Bills*, STAT NEWS (Mar. 18, 2026), <https://tinyurl.com/3e82uwpy>; see also ROA.780-82. In exchange for contingency fees, HaloMD bombards IDR systems with claims it knows are ineligible, confident no one will detect its fraud before awards are determined. Despite swearing, for example, that

every submitted claim is eligible for IDR, HaloMD routinely submits identical claims to the federal IDR process and the Texas IDR process so that it can get paid twice for the same service.

Such fraud drives up healthcare costs to the tune of billions of dollars. Blue Cross Blue Shield of Texas (“BCBSTX”) already has been ordered to pay more than \$100 million because of HaloMD’s fraud. That figure, moreover, does not include the tens of millions of dollars more that BCBSTX spends on administrative fees and for additional staffing to investigate and prevent the fraud. After HaloMD and the LaRoques refused to stop submitting false claims, BCBSTX had no choice but to sue them for fraud and related causes of action under federal and state law.

The district court, however, concluded that it was powerless to stop their fraud. According to the court, a narrow judicial-review bar in the NSA not only prevents review of individual payment amounts, but effectively bars all litigation related to IDR. It further ruled that the Texas Legislature implicitly stripped courts of jurisdiction, even though S.B. 1264 has *no* judicial-review bar for common-law claims like BCBSTX’s and its remedies “are in addition to any other defense, remedy, or procedure provided by law, including the common law.” Tex. Ins. Code §1467.004.

The district court's decision effectively immunizes a massive scam that increases healthcare costs for millions of people. Neither Congress nor the Texas Legislature permit such abuse. On the contrary, construing a judicial-review bar to go beyond what Congress wrote and inferring a jurisdiction-stripping provision that the Texas Legislature never wrote flips ordinary rules of interpretation on their head. The Court should read the NSA and S.B. 1264 to mean what they say and end HaloMD's fraud.

STATEMENT OF JURISDICTION

The district court had jurisdiction under 28 U.S.C. §1331 because BCBSTX alleged claims under the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§1961-68. ROA.821-39. The district court also had jurisdiction over BCBSTX's state-law claims under 28 U.S.C. §1332 because (1) the amount in controversy exceeds \$75,000 and (2) there is complete diversity between BCBSTX (an Illinois company with its principal place of business in Illinois), Alla and Scott LaRoque (who are domiciled in Texas), and HaloMD (a Delaware LLC with its principal place of business in Texas). ROA.762-63. The district court, however, ruled that the NSA's narrow judicial-review bar and an implied jurisdiction-stripping provision supposedly found in S.B. 1264 block BCBSTX's claims. ROA.742-54.

This Court has appellate jurisdiction under 28 U.S.C. §1291 to review the district court's dismissal for lack of subject-matter jurisdiction because BCBSTX timely appealed the final judgment. ROA.756.

STATEMENT OF ISSUES

1. Whether the NSA's judicial-review bar precluding challenges to an IDR entity's payment-amount determination also strips courts of jurisdiction over claims targeting eligibility fraud that do not challenge an IDR entity's payment-amount determination, including claims challenging fraudulently induced private settlements and that request prospective relief.
2. Whether S.B. 1264, which does not purport to withhold jurisdiction over cases alleging existing common-law claims against parties who lack rights under the statute, nonetheless implicitly strips courts of jurisdiction to hear claims targeting eligibility fraud.
3. Whether the district court properly dismissed BCBSTX's lawsuit with prejudice despite the rule that dismissals for lack of subject-matter jurisdiction must be without prejudice.

STATEMENT OF THE CASE AND FACTS

A. The No Surprises Act

In 2020, a bipartisan Congress enacted the NSA to “mitigate[] unexpected medical bills from out-of-network healthcare providers.” *Tex. Med. Ass’n v. U.S. Dep’t of Health & Hum. Servs.*, --F.4th--, 2026 WL 2322331, at *1 (5th Cir. Aug. 11, 2026) (en banc) (per curiam). Historically, out-of-network healthcare providers could “balance bill” patients for the difference between the provider’s billed charge and the health plan’s maximum reimbursement amount. ROA.764-65. Patients often had no idea they would receive such bills until after receiving care and would be faced with exorbitant costs. *Id.* Where it applies, the NSA prohibits providers from sending surprise bills to patients and instead channels billing disputes to providers and health plans. As relevant here, the NSA also establishes an IDR process to efficiently resolve such disputes. *See* 42 U.S.C. §300gg-111(c). Congress, in short, enacted the NSA to “curb[] cost growth.” H.R. Rep. No. 116-615, at 57 (Dec. 2, 2020).

1. The NSA’s IDR Requirements

The NSA limits IDR to claims for items or services that meet eligibility criteria. *See* 42 U.S.C. §300gg-111(a)(1), (b)(1), (c)(1), (2), (5). In fact, “certified

IDR entities are statutorily prohibited from making payment determinations for items and services that are not subject to the [NSA].” *Federal Independent Dispute Resolution Operations*, 91 Fed. Reg. 33,900, 33,933 (June 4, 2026). Items and services excluded from federal IDR include categories of care that are outside the scope of the NSA, 42 U.S. §300gg-111(a)(1), (b)(1), (c)(1)(A), 300gg-112; those governed by a state surprise-billing law, *id.* §300gg-111(a)(3)(I); those outside the scope of the IDR process (*e.g.*, untimely claims), *id.* §300gg-111(c)(1)(B); and those that have been the subject of a previous IDR award, *id.*

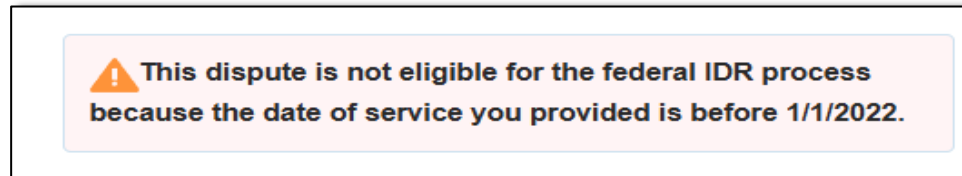
2. Procedures For Federal IDR

The NSA also includes procedures for IDR. Before initiating it, a provider must open negotiations within 30 days of receiving payment. *Id.* §300gg-111(c)(1)(A). Parties may settle during this time and at any point up to the IDR entity’s award determination. *Id.* §300gg-111(c)(2)(B).

Once the open-negotiations period closes, the IDR process moves quickly, and the parties are tasked with a flurry of administrative requirements in a short time frame.

First, the provider must initiate IDR within four business days after the open-negotiations period by submitting a notice on the Federal IDR Portal.

Id. §300gg-111(c)(1)(B); ROA.768. To do so, the provider selects the “Health Plan Type” from a drop-down menu. If a health plan or claim is ineligible for IDR (for example, because it is untimely), the provider receives a pop-up notification:



ROA.770.

Next, the provider discloses information about the items or services.

Id. Finally, the provider signs an “attestation” under oath that the “item(s) and/or service(s) at issue are qualified item(s) and/or service(s) within the scope of the Federal IDR process”:

8. ATTESTATION:	
___ I, the undersigned initiating party (or representative of the initiating party), attests that to the best of my knowledge the preferred certified IDR entity does not have a disqualifying conflict of interest and that the item(s) and/or service(s) at issue are qualified item(s) and/or service(s) within the scope of the Federal IDR process.	
Initiating Party (or Representative of the Initiating Party): _____	
Print Name: _____	Date: _____

ROA.771.

Once the provider initiates IDR, the health plan must submit a written response and supporting documentation within three days. 45 C.F.R.

§149.510(b)(2)(iii).¹ The parties then select a Certified Independent Dispute Resolution Entity during this three-day window. *Id.* §149.510(c)(1)(i). If the parties don't agree on an IDR entity, HHS promptly will select one. *Id.* §149.510(c)(1)(ii). The certified IDR entity has three business days to conduct a conflict-of-interest review and attest that it meets certification requirements. *Id.* §149.510(c)(1)(iv).

The NSA “does not contemplate an eligibility determination process.” 91 Fed. Reg. at 33,942. Recognizing that statutory gap, the U.S. Departments of Health and Human Services, Labor, and Treasury (the “Departments”)—not Congress—used their broad rulemaking authority to implement the NSA, *see* 42 U.S.C. §300gg-111(c)(2)(A), to task IDR entities with a limited form of eligibility review before those entities proceed to payment-amount determinations, *see* 45 C.F.R. §149.510(c)(2).

That eligibility review (again, created by regulation, not statute) also has tight deadlines. Health plans only have three business days after IDR is

¹ References to the Code of Federal Regulations are to the current 2026 version unless otherwise stated.

initiated to submit an explanation and supporting documentation that a claim is ineligible for IDR, *see* 45 C.F.R. §149.510(b)(2)(iii)(A)(8).

The IDR entity must decide whether the claim is eligible no later than five business days after the entity is selected. 45 C.F.R. §149.510(c)(2)(i). Notably, there is no fact-finding process for disputing eligibility, and, in previous versions, the regulations did not require IDR entities to consider the health plan's submissions or eligibility objections at all. 45 C.F.R. §149.510(c) (2024).² Under the current rules, the IDR entity is now required to consider eligibility objections, but even that review is limited. 45 C.F.R. §149.510(c)(2)(i). The IDR entity “must review the information in the notice of IDR initiation [and] notice of IDR initiation response” and can request additional information. *Id.* §149.510(c)(2)(i), (c)(2)(ii). The IDR entity has limited tools beyond those submissions to investigate whether a claim is fraudulent. There is no discovery, for example, let alone a hearing for evidence to be presented. *Id.* §149.510(c). IDR entities also are not paid for time they spend assessing eligibility and are not paid at all if they determine

² As of August 3, 2026, IDR entities must consider such information. *See* 45 C.F.R. §149.510(c)(2)(i).

a dispute is ineligible. 42 U.S.C. §300gg-111(c)(5)(F); *see also* Jack Hoadley & Kennah Watts, *Spending on IDR Process Pushes No Surprises Act Costs to More than \$22.4 Billion Over Just Four Years*, HEALTH AFFS. FOREFRONT (Aug. 26, 2026), <https://tinyurl.com/2xyfmybz>.

3. Federal IDR Payment Determinations

Meanwhile, the clock continues to run for other IDR deadlines. The provider and health plan each must submit an offer within ten business days after an IDR entity is selected. 42 U.S.C. §300gg-111(c)(5)(B); 45 C.F.R. §149.510(c)(5)(i). By statute, the IDR entity's sole task is to "select one of the offers" as "the amount of payment." *Id.* §300gg-111(c)(5)(A). In determining an amount, there also is no discovery, hearings, cross-examination, fact-finding, or opportunity to respond to the other party's submission. *E.g., id.* §300gg-111(c)(5); 45 C.F.R. §149.510(c)(5).

The IDR entity's payment-determination decision with respect to a qualified IDR item or service is binding. *Id.* §300gg-111(c)(5)(F), (c)(5)(E)(i). It also is subject to a narrow judicial-review bar:

A determination ... under subparagraph (A)

(I) shall be binding upon the parties involved, in the absence of a fraudulent claim or evidence of

misrepresentation of facts presented to the IDR entity involved regarding such claim; and

(II) shall not be subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9 [the Federal Arbitration Act (“FAA”)].

Id. §300gg-111(c)(5)(E)(i).

“[S]ubparagraph (A)” concerns the IDR entity’s “[p]ayment determination.” *Id.* §300gg-111(c)(5)(A). Section 10(a) of the FAA—incorporated by reference—describes four cases where a court may “vacat[e]” an award, including for “misbehavior” or “corruption” by the arbitrators, or where they “exceed[] their powers.” 9 U.S.C. §10(a). It also authorizes review of an “award” that is “procured by corruption, fraud, or undue means.” *Id.* Fraud *during* an IDR entity’s payment-amount determination and between the parties to the IDR thus indisputably can be challenged in court. No provision of the NSA, moreover, purports to bar claims alleging fraud *before* the payment-determination process begins, such as about IDR eligibility, let alone against non-parties.

B. Senate Bill 1264

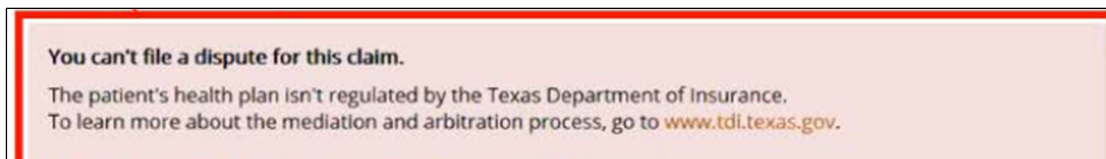
In 2019, the Texas Legislature enacted its own surprise-billing law, S.B. 1264, which establishes an “Out-of-Network Claim Dispute Resolution”

process like the NSA's. *See* Tex. Ins. Code §§1467.050, 1467.081-.089. As relevant here, S.B. 1264 also creates an IDR process.

1. S.B. 1264's IDR Requirements

Like federal IDR, S.B. 1264 has strict eligibility requirements. For example, it applies only to claims for members with certain Texas health benefit plans, including Texas fully-insured health maintenance organizations ("HMOs"), preferred-provider organizations ("PPOs"), and Employees Retirement System and Teacher Retirement System plans. ROA.772-73; Tex. Ins. Code §1467.002(1)-(3). Out-of-state, self-funded, Medicare, and Medicaid plans are excluded. *Id.* Texas IDR also only applies to identified categories of care and services. Tex. Ins. Code §§1467.084(a)(2)(A)-(D).

The Texas IDR process works similarly to the federal one. *See id.* §1467.081, *et seq.* Within 90 days of receiving initial payment on a claim, providers may request arbitration via the Texas Department of Insurance's ("TDI") online portal. *Id.* §1467.084(a); ROA.773. They input information into TDI's portal, including the health plan and the date of service and payment. ROA.774-76. If the information does not meet eligibility criteria, the portal blocks submission:



ROA.776. And as with federal IDR, providers must attest to eligibility:

A yellow-bordered box containing a survey question and two radio button options. The text inside reads: "Is everything you entered true and accurate? (Legal action may be taken if you provide false information.)" followed by two radio buttons labeled "Yes" and "No".

Is everything you entered true and accurate? (Legal action may be taken if you provide false information.)

☐ Yes

☐ No

ROA.777-78.

Within 30 days of initiating IDR, the parties must participate in an informal settlement teleconference. Tex. Ins. Code §1467.084(d). If no resolution is reached, the parties must agree on an “arbitrator” or TDI will appoint one. *Id.* §1467.086(a). The arbitrator sets a schedule for the parties to submit offers and must issue an award no later than 51 days after IDR is initiated. *Id.* §§1467.087(a), 1467.088(a). The arbitrator selects the offer closest to the “reasonable amount” for the services. *Id.* §1467.088(a)(1).

2. Texas IDR Payment Determinations

Like the NSA, S.B. 1264 limits an arbitrator’s authority: “The *only issue* that an arbitrator may determine under this subchapter is the reasonable amount” for the services. Tex. Ins. Code §1467.083(a) (emphasis added). A dissatisfied party may seek review of an award through a new statutory

cause of action within 45 days under a “substantial evidence” standard. *Id.* §1467.089(a)-(c). As relevant here, however, the Legislature did not cabin review of other aspects of IDR-related disputes. Rather, available statutory remedies “are in addition to any other defense, remedy, or procedure provided by law, including the common law.” *Id.* §1467.004.

C. HaloMD’s Fraudulent Scheme

Congress and the Texas Legislature created IDR to lower healthcare costs. Costs, however, have exploded. The volume of IDR disputes has far exceeded Congress’s expectation of approximately 17,435 disputes per year. *See, e.g.,* Requirements Related to Surprise Billing, 87 Fed. Reg. 52,618 (Aug. 26, 2022). In 2025, the volume was 2.6 million—nearly 120 times Congress’s projection. *See* Hoadley & Watts, *supra*. The number, moreover, continues to skyrocket. ROA.778. In fact, CMS reported over 2.1 million disputes in just the first seven months of 2026. *See* CMS, *Independent Dispute Resolution Reports* (July 22, 2026), <https://tinyurl.com/5enjup2e>; *see also* Anna Wilde Mathews & Tom McGinty, *Medical Billing Arbitration Paid Out \$15 Billion to Providers in Surprise Bill Disputes*, WALL ST. J. (July 22, 2026), <https://tinyurl.com/6zcf96ex>.

This explosion of claims has imposed an estimated \$22 billion of costs on the healthcare system—costs ultimately borne by consumers. *See, e.g.,* Hoadley & Watts, *supra*; *see also* ROA.779.

A key cause of that explosion is that HaloMD and other middlemen are gaming the system. Alla LaRoque founded HaloMD in 2022, and her husband, Scott, sits on its Board of Directors. ROA.759, 762, 781-82. HaloMD is a billing company that initiates IDR proceedings on behalf of out-of-network providers in exchange for contingency fees. ROA.759, 782-83. Although not a party to any IDR proceeding, HaloMD touts itself as a leading NSA expert and advertises IDR awards eight times higher than the standard in-network payment. ROA.760.

HaloMD is one of a small group of organizations that submit over three quarters of federal IDR claims. HaloMD's submissions alone account for over 27% of *all* federal IDR disputes in 2025, *see* Hoadley & Watts, *supra*, up from 10% in 2024, ROA.782. HaloMD, moreover, does not limit itself to the federal process. Indeed, it has already initiated more than 12,000 Texas IDR disputes against BCBSTX alone. ROA.782.

The fraud is simple but effective: HaloMD floods IDR systems with thousands of claims—many it knows are ineligible. ROA.782-84. Using

“delay and dump” tactics, HaloMD collects claims and initiates massive numbers of IDR proceedings simultaneously, often on weekends and holidays. ROA.806-07. A huge portion of such “dumps” includes claims that are ineligible, but HaloMD falsely attests otherwise. *Id.* Company leaders also reportedly instruct employees not to verify eligibility. *See* Hoadley & Watts, *supra*. Yet “willful blindness may support a finding of actual knowledge.” *Unicolors, Inc. v. H&M Hennes & Mauritz, LP*, 595 U.S. 178, 187 (2022).

HaloMD has submitted thousands of duplicate claims under federal and Texas IDR. ROA.798. In one case, HaloMD initiated Texas IDR on behalf of a provider who offered services to a BCBSTX member. ROA.798. Because the member had an Employees Retirement System of Texas plan, the claim could only be submitted to Texas IDR—not federal IDR. 42 U.S.C. §300gg-111(a)(3)(K); Tex. Ins. Code §1467.002(1)-(3); ROA.799. HaloMD and BCBSTX settled the claim at the S.B. 1264-mandated informal teleconference. ROA.799. Yet soon after, HaloMD initiated open negotiations under federal IDR for the *same* services. *Id.* BCBSTX explained that the claim was ineligible because “State specified law applies.” ROA.801. HaloMD initiated federal

IDR anyway. ROA.801-02. In doing so, it attested – falsely – that the services were “within the scope of the Federal IDR Process.” ROA.802.

HaloMD ultimately procured an award against BCBSTX – despite that claim having already been settled under Texas IDR. *Id.* HaloMD and the LaRoques have never defended such black-and-white double recovery.

This is but one example of the fraudulent tactics that HaloMD employs for submitting tens of thousands of ineligible claims and falsely attesting to their eligibility. ROA.785-807. HaloMD has falsely represented that a plan was “within the scope of the Federal IDR process” despite knowing that it was an IDR-ineligible Medicare plan. ROA.791-92. BCBSTX contested eligibility, but HaloMD still procured an award. ROA.792. HaloMD also has initiated IDR proceedings outside the statutory deadlines, allowing it to obtain wrongful awards more than 34,000 times. ROA.760-61.

Overall, HaloMD’s fraud has led to over \$100 million in wrongful awards against BCBSTX. ROA.761. The harms to BCBSTX, however, are greater than even that astronomical sum. BCBSTX has incurred \$30 million so far in administrative fees and costs for these IDRs. *Id.* HaloMD’s fraud has also induced BCBSTX to settle ineligible claims before HaloMD is able to procure an IDR award. ROA.820. And BCBSTX’s efforts to identify and

prevent this fraud – including building an anti-fraud team – have caused it to incur significant additional expenses and overhead. ROA.785.

D. Proceedings Below

BCBSTX sued HaloMD and the LaRoques alleging fraud, negligent misrepresentation, fraudulent inducement, money had and received, and violations of RICO. In addition to damages, BCBSTX seeks equitable and declaratory relief, including an injunction barring HaloMD from submitting more false attestations or initiating IDR for ineligible claims. ROA.811-40.

None of BCBSTX's claims challenge any IDR payment-amount determination, nor do they ask any provider to return money. Instead, BCBSTX seeks damages from HaloMD and the LaRoques – *nonparties* to IDRs – for wrongly induced settlements outside of an IDR award; awards fraudulently procured for ineligible claims; administrative fees and costs associated with ineligible claims; and overhead and staffing expenditures required to combat this fraud. ROA.761, 785, 813-14, 816, 818-820, 837, 839-40.

The district court, however, dismissed BCBSTX's lawsuit with prejudice for lack of subject-matter jurisdiction. ROA.184, 751, 754. Regarding federal IDR, it concluded that the NSA's judicial-review bar strips

courts of jurisdiction over essentially any IDR-related dispute—not just disputes about payment-amount determinations. ROA.744. It also concluded that BCBSTX’s claims amount to “no more than a collateral attack on the Final Award itself.” ROA.746-47 (quoting *Gulf Petro Trading Co. v. Nigerian Nat’l Petro. Corp.*, 512 F.3d 742, 750 (5th Cir. 2008)). The court, however, did not explain why its reading of the NSA’s judicial-review bar, even if accurate, would strip courts of jurisdiction to adjudicate claims about fraud in connection with *private* settlements occurring independently of any IDR award. See ROA.820 (alleging fraud in private settlements).

The court also concluded that S.B. 1264 implicitly contains a jurisdiction-stripping provision that bars BCBSTX’s claims, despite statutory language allowing challenges to IDR awards and preserving all common-law remedies. ROA.753-54. It concluded too that BCBSTX’s claims amounted to an impermissible collateral attack under Texas law. ROA.754. Because it dismissed this case on jurisdictional grounds, the court had no occasion to reach non-jurisdictional merits defenses. *Id.* Nonetheless, it dismissed the case with prejudice. ROA.184, 751, 754.

SUMMARY OF ARGUMENT

The NSA and S.B. 1264 exist to protect patients from surprise bills and to lower healthcare costs. Yet costs have skyrocketed thanks to companies like HaloMD that game IDR by submitting false attestations to obtain tens of thousands of wrongful awards and settlements.

No one disputes that the NSA's judicial-review bar precludes review of individual payment-amount determinations unless one of the FAA's grounds for vacatur applies, and that S.B. 1264 creates a new cause of action to review the amounts of individual awards. But nothing in the NSA or S.B. 1264 immunizes misrepresentations about eligibility for IDR. And even if—contrary to law—BCBSTX cannot obtain damages to compensate it for HaloMD's and the LaRoques's eligibility fraud, the district court's analysis on its own terms should not apply to BCBSTX's requests for prospective relief and damages for conduct outside of the IDR process.

I. The NSA does not bar review of BCBSTX's claims. On its face, the NSA's judicial-review bar applies to individual payment-amount determinations, not to eligibility decisions. That language controls. Indeed, Congress did not task IDR entities to ever decide eligibility; that step was established by federal regulations. Yet agencies cannot use regulations to

limit the jurisdiction of federal courts. *See Kucana v. Holder*, 558 U.S. 233, 248, 252 (2010). Regardless, the key term here is “a determination” — singular. The Supreme Court has held that a review-bar directed at a single determination does not bar claims alleging systemic error. *See McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 483-84 (1991).

The district court therefore erred by treating eligibility decisions as “inherent” in payment-amount determinations. And it also wrongly invoked collateral-attack principles untethered from the NSA. By definition, for example, a request for a prospective injunction or a claim challenging misrepresentations concerning private settlements cannot be condemned as a collateral attack on nonexistent IDR awards.

II. The district court’s treatment of S.B. 1264 is equally flawed. S.B. 1264 not only does not purport to strip courts of jurisdiction over claims like BCBSTX’s, but its remedies “are in addition to any other ... remedy ... provided by law, including the common law.” Tex. Ins. Code §1467.004. It thus makes no sense to say that the Texas Legislature implicitly barred common-law claims like fraud against parties who are strangers to the contract underlying the IDR. The district court’s contrary analysis defies statutory language and the rule that limits on review must be construed

narrowly given the Texas Constitution's open-courts guarantee. In all events, as with the NSA, the court's analysis fails on its own terms with respect to BCBSTX's claims and requested remedies that have no connection to any IDR award.

III. The Court should reverse the district court's decision and allow BCBSTX's claims to proceed. But at minimum, the Court must reverse the district court's dismissal of BCBSTX's claims "with prejudice." ROA.184, 751, 754. A Rule 12(b)(1) dismissal must be without prejudice. The decision here thus cannot prevent BCBSTX from refiling claims against HaloMD.

STANDARD OF REVIEW

The Court reviews de novo the district court's dismissal for lack of subject-matter jurisdiction under Rule 12(b)(1). *Crocker v. Austin*, 115 F.4th 660, 664 (5th Cir. 2024). Where, as here, the district court resolved no dispute about jurisdictional facts, the Court must take all "well-pled factual allegations of the complaint as true" and construe "them in the light most favorable" to BCBSTX. *Robledo v. United States*, 147 F.4th 515, 519 (5th Cir. 2025) (cleaned up). "A dismissal for lack of jurisdiction under Rule 12(b)(1) will not be affirmed unless it appears certain that [BCBSTX] cannot prove any set of facts ... that would entitle [it] to relief." *Id.* (cleaned up).

ARGUMENT

I. The NSA Does Not Strip Jurisdiction Over BCBSTX's Case.

A. Nothing in the NSA Bars BCBSTX's Claims.

Nothing in the NSA bars courts from adjudicating BCBSTX's lawsuit. The NSA's judicial-review bar only covers an IDR entity's individual payment-amount determination. That narrow provision does not strip courts of jurisdiction over lawsuits that do not challenge individual payment determinations but rather target widespread eligibility fraud by nonparties like HaloMD and the LaRoques.

1. The NSA Only Bars Payment-Amount Challenges.

Congress did not preclude jurisdiction here. The Court should reverse the decision below based on the principle that jurisdictional limits are read narrowly and the plain text of the NSA's judicial-review bar.

a. It is a "basic principle" that courts must "'read limitations on [their] jurisdiction to review narrowly.'" *Castro v. United States*, 540 U.S. 375, 381 (2003) (quoting *Utah v. Evans*, 536 U.S. 452, 463 (2002)). Thus, once Congress confers jurisdiction, the "strong presumption" is that courts can hear all cases falling within that jurisdiction. *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 370 (2018) (quotations omitted). This presumption can be defeated only

by “clear and convincing indications that Congress meant to foreclose review.” *Id.* (quotations omitted). In short, where there is a “broad grant of jurisdiction,” Congress must “speak clearly if it seeks to impose exceptions to that jurisdiction.” *Bowe v. United States*, 607 U.S. 13, 25 (2026).

This case falls squarely within Congress’s broad grants of federal question and diversity jurisdiction. “Congress has broadly authorized the federal courts to exercise subject-matter jurisdiction over ‘all civil actions arising under the Constitution, laws, or treaties of the United States.’” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 505 (2006) (quoting 28 U.S.C. §1331). Congress’s grant of “jurisdiction” under the “diversity statute” is also quite “broad.” 13E WRIGHT & MILLER’S FEDERAL PRACTICE & PROCEDURE §3609 (3d ed. 1998) (describing 28 U.S.C. §1331). Any exception for the claims brought by BCBSTX therefore must be “clear[.]” *Bowe*, 607 U.S. at 25.

b. The NSA does not contain any such exception, clear or otherwise. On its face, the NSA’s judicial-review bar limits review of individual payment-amount determinations in IDR disputes between parties, not widespread fraud perpetrated by nonparties about eligibility. Congress provided that “[a] determination of a certified IDR entity *under*

subparagraph (A) ... shall not be subject to judicial review.” 42 U.S.C. §300gg-111(c)(5)(E)(i)(II) (emphasis added).

“[S]ubparagraph (A),” *id.*, in turn provides:

(5) *Payment determination*

(A) In general

Not later than 30 days after the date of selection of the certified IDR entity with respect to a determination for a qualified IDR item or service, the certified IDR entity shall –

(i) taking into account the considerations specified in subparagraph (C), *select one of the offers submitted* under subparagraph (B) to be the *amount of payment* for such item or service determined under this subsection for purposes of subsection (a)(1) or (b)(1), as applicable; and

(ii) notify the provider or facility and the group health plan or health insurance issuer offering group or individual health insurance coverage party to *such determination of the offer selected* under clause (i).

Id. §300gg-111(c)(5)(A) (emphases added).

The “determination of a certified IDR entity under subparagraph (A)” thus is “select[ing] one of the offers” submitted by the parties “to be the amount of payment.” *Id.* That does not include separate eligibility decisions, especially eligibility decisions tainted by fraud.

Congress, moreover, was explicit that the IDR entity's only job is "select[ing] one of the offers" and "notify[ing]" the parties of "*such* determination." *Id.* §300gg-111(c)(5)(A) (emphasis added). The statute nowhere says the IDR entity determines whether an "IDR item or service" is "qualified." Instead, the entity makes a "determination" about an "IDR item or service" that *already* is "qualified." *Id.* Congress's use of the active voice for determinations made by the IDR entity and the passive voice for determinations about whether something is "qualified" confirms that the "determination of a certified IDR entity under subparagraph (A)," *id.* §300gg-111(c)(5)(E)(i) (emphasis added), can only be a payment-amount determination. After all, "[t]he passive voice focuses on an event that occurs without respect to a specific actor." *Dean v. United States*, 556 U.S. 568, 572 (2009). The Court should read this language to mean what it says and hold that the NSA does not strip jurisdiction over BCBSTX's claims.

c. Congress also spoke of a single "determination of the offer selected." 42 U.S.C. §300gg-111(c)(5)(A). When Congress enacts a judicial-review bar related to a single determination, that bar does not apply to claims challenging systemic irregularities that cut across countless determinations. Instead, under *McNary*, provisions barring challenges to a

“single act” do not preclude “broad[er],” more programmatic cases. *Mullin v. Doe*, 146 S.Ct. 2121, 2134 (2026).

In *McNary*, the Court analyzed a law allowing aliens to apply for adjustment of status. 498 U.S. at 483. The statute provided that: “There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section.” *Id.* at 486 n.6 (quoting 8 U.S.C. §1160(e)). Plaintiffs sued on behalf of a class and alleged a “pattern or practice of procedural due process violations” in administering the program. *Id.* at 483. The government rejoined that Congress barred jurisdiction, but the Court read the “critical words” “*a determination respecting an application*” as describing a “single act.” *Id.* at 492. The bar thus referred only to “direct review of individual denials ... rather than as referring to general collateral challenges.” *Id.* Furthermore, everything in the application-review record (*e.g.*, form, medical records, evidence of employment) “relat[ed] to a single ... applicant.” *Id.* at 493. Yet the evidence the *McNary* plaintiffs adduced would address overarching issues, “most of which would have been irrelevant in the processing of a particular individual application.” *Id.* at 497.

The NSA should be read in the same way. Congress barred review of “[a] determination” – singular. 42 U.S.C. §300gg-111(c)(5)(E)(i). There is no material difference between “a determination respecting an application” (at issue in *McNary*) and “[a] determination ... under subparagraph (A)” (at issue here). And the evidence BCBSTX will adduce to prove an overarching fraudulent scheme will be mostly “irrelevant,” *McNary*, 498 U.S. at 497, to an IDR entity’s selection of an offer under subparagraph (A). This case therefore “does not challenge any individual determination of [payment amount] but rather attacks the manner in which the entire program is being [defrauded].” *Id.* at 488 (citation omitted).

2. Other Tools of Interpretation Confirm the Judicial-Review Bar is Limited to Payment Determinations.

Other familiar tools of interpretation confirm that Congress did not strip courts of jurisdiction over BCBSTX’s lawsuit. Beyond “text,” the Court also considers “structure, history, and purpose, including all the traditional canons of statutory construction.” *United States v. Palomares*, 52 F.4th 640, 647 (5th Cir. 2022) (quoting *Shular v. United States*, 589 U.S. 154, 165 (2020)). Here, each confirms that the determination under subparagraph (A) is limited to individual payment-amount determinations.

a. Begin with structure, specifically the title. Titles help resolve “doubt about the meaning of a statute.” *Porter v. Nussle*, 534 U.S. 516, 527-28 (2002). Subparagraph (A) is housed in a section entitled “Payment determination.” 42 U.S.C. §300gg-111(c)(5). Congress thus indicated that subparagraph (A) is about the determination of amount of payment, not eligibility for IDR.

Subparagraph (A)’s neighboring sections also relate to payment-amount determinations. Subparagraph (B)—cross-referenced in subparagraph (A)—says submissions are limited to “an offer for payment amount” and information “relating to such offer.” *Id.* §300gg-111(c)(5)(B)(i). Subparagraph (C)—also cross-referenced—then lists considerations for the IDR entity “[i]n determining which offer is the payment to be applied.” *Id.* §300gg-111(c)(5)(C). Because subparagraph (B) or (C) exclusively relate to payment-amount determinations and have nothing to do with eligibility, subparagraph (A) also must be about payment-amount determinations. That is, “[t]he meaning” of subparagraph (A) “‘is ... clarified by the remainder of the statutory scheme.’” *Ramos-Portillo v. Barr*, 919 F.3d 955, 960 (5th Cir. 2019) (quoting *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 321 (2014)); see also *Bowe*,

607 U.S. at 28 (Congress did not bar jurisdiction where the “language of the cross-reference is both narrow and specific”).

Other features confirm this point. If Congress intended IDR entities to resolve eligibility disputes under subparagraph (A), it would have said so. Instead, Congress provided that IDR entities are paid only for choosing a payment offer, *see* 42 U.S.C. §300gg-111(c)(5)(F); did not provide IDR entities with tools necessary to assess eligibility, such as discovery or hearings, *see, e.g., id.* §300gg-111(c)(5); and only required IDR entities to consider submissions related to payment amount, *id.* §300gg-111(c)(5)(B)-(C). These provisions confirm that the NSA simply “does not contemplate an eligibility determination process.” 91 Fed. Reg. at 33,942. The notion that Congress stripped courts of jurisdiction over eligibility fraud while not providing IDR entities with information to make eligibility determinations “sounds absurd, because it is.” *Sekhar v. United States*, 570 U.S. 729, 738 (2013).

Congress also indicated that fraud *within* the IDR payment-determination process can be challenged in court. *See* 42 U.S.C. §300gg-111(c)(5)(E)(i) (incorporating by reference 9 U.S.C §10(a)).³ Congress thus

³ Because HaloMD and the LaRoques are not parties to IDR, let alone award recipients, BCBSTX is limited in its ability to bring FAA vacatur actions

does not want fraud, and nothing suggests that Congress intended otherwise for fraud *outside* the IDR payment-determination process. Given that the NSA does not purport to strip courts of jurisdiction to combat eligibility fraud, any structural inferences cut in favor of jurisdiction—not against it.

Additionally, subsection (E)(i)(I) provides that the IDR entity’s payment-amount determination for a qualified IDR item or service “shall be binding *upon the parties involved*.” 42 U.S.C. §300gg-111(c)(5)(E)(i)(I). The determination “binding upon the parties” is the same determination that “shall not be subject to judicial review” in subsection (E)(i)(II). *Id.* §300gg-111(c)(5)(E)(i)(II). The review bar thus cannot apply to claims against nonparties like HaloMD for fraud before payment-amount determination occurs.

b. Congress’s treatment of review bars in other statutes points in the same direction. Courts must “make sense rather than nonsense out of the

under 42 U.S.C. §300gg-111(c)(5)(E)(i) and 9 U.S.C. §10(a) against them. Vacatur, moreover, would not remotely remedy many harms caused by their unlawful scheme. For example, as explained below, BCBSTX has spent a fortune on anti-fraud measures that sometimes prevent HaloMD’s fraud, in which case there is no award to vacate. *See pp. 38-40, infra.*

corpus juris.” *W. Va. Univ. Hosps., Inc. v. Casey*, 499 U.S. 83, 101 (1991). Yet when Congress bars review of decisions arising from non-judicial proceedings, it does so explicitly, with broad, all-encompassing language. For example, Congress barred review under the Congressional Review Act by stating: “No determination, finding, action, or omission under this chapter shall be subject to judicial review.” 5 U.S.C. §805. Similarly, in the Veterans Judicial Review Act, Congress specified that (i) the Secretary “shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits,” and (ii) “the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court.” 38 U.S.C. §511(a). Congress knows how to bar review of eligibility decisions, too. The Inflation Reduction Act’s Drug Price Negotiation program provides that “[t]here shall be no ... judicial review of ... the determination of negotiation-*eligible* drugs.” 42 U.S.C. §1320f-7(2) (emphasis added).

Congress could have drafted the NSA’s judicial-review bar broadly to include eligibility, as it did with other statutes. It did not. Instead, Congress limited the NSA judicial-review bar to the payment-amount determination under subparagraph (A) and nothing more.

Nor, in making sense rather than nonsense of the law, is there reason to think that Congress departed from the rule that gateway arbitrability disputes are for courts while merits disputes about arbitration-eligible questions are for arbitrators. *E.g., First Options of Chi., Inc. v. Kaplan*, 514 U.S. 938, 944 (1995). This is a fundamental dividing line that courts follow every day. True, IDR and arbitration differ in many important respects, including regarding procedural safeguards, but nothing in the NSA’s text or structure suggests that the familiar rule that courts may decide eligibility disputes should not apply under the NSA.

c. Finally, history and purpose confirm the same. The NSA was enacted to reduce healthcare costs and provide an efficient dispute resolution mechanism for out-of-network care. *See* HHS, Office of Health Policy, *Evidence on Surprise Billing: Protecting Consumers with the No Surprises Act*, (Nov. 22, 2021), <https://tinyurl.com/2ma7vans>. Congress thus created an IDR process for a limited number of disputes that met eligibility criteria — roughly 20,000 per year, as estimated by the Congressional Budget Office. CBO, *Estimate for Divisions O Through FF, H.R. 133, Consolidated Appropriations Act, 2021*, at 2-3 (Jan. 14, 2021), <https://tinyurl.com/3eec2a4n>. But IDR claims have ballooned to an “astronomical” volume of 2.6 million

in 2025, many of which are ineligible. Hoadley & Watts, *supra*; see also ROA.759. Congress’s contemporaneous estimate shows it did not believe it had authorized IDR for *ineligible* claims, let alone that it had stripped courts of jurisdiction over claims alleging fraud before a payment-amount determination.

3. Implementing Regulations Confirm Eligibility and Payment Determinations Are Distinct.

Regulations implementing the NSA underscore what the NSA says: Eligibility decisions and payment-amount determinations are distinct. Eligibility thus cannot be “inherent” in a payment determination and so cannot fall within the NSA’s judicial-review bar. In fact, any eligibility determination by an IDR entity is the product of regulation. Allowing regulations, not statutes, to define what falls within a court’s jurisdiction runs headlong into binding precedent. *See Kucana*, 558 U.S. at 252.

Nowhere does the NSA create a process for confirming whether claims are eligible for IDR, much less does it require IDR entities to determine eligibility as part of the “payment determination” under subparagraph (A). Beyond listing requirements that must be satisfied before the IDR payment-amount-determination process begins, the NSA says nothing about who or

how to enforce those requirements. The Departments thus agree the NSA “does not contemplate an eligibility determination process.” 91 Fed. Reg. at 33,942.

The Departments have attempted to address that gap through regulations. These recently updated regulations confirm that eligibility decisions and payment-amount determinations are distinct. The regulations, for example, create a “Federal IDR process eligibility review.” 45 C.F.R. §149.510(c)(2). By contrast, regulations related to “Payment determination for a qualified IDR item or service” are located in a separate paragraph, (c)(5). These regulations also use the terms “eligibility determination” and “payment determination” separately, and, indeed, expressly differentiate the two. *E.g., id.* §149.510(c)(2)(ii) (IDR entity may request information for “conducting an eligibility determination, *or* making a payment determination” (emphasis added)).

The eligibility-review process is distinct from the payment determination, too. The eligibility process begins with the non-initiating party notifying the Departments by submitting eligibility concerns to the IDR portal. *Id.* §149.510(b)(2)(iii)(A)(8). This notification occurs *before* the IDR entity has been selected. *Id.* §149.510(c)(1). The Departments then supply this

information to the IDR entity (once selected). If the IDR entity determines that a claim is ineligible, the dispute will be closed, and the IDR entity will not take any further action, *id.* §149.510(c)(2)(i) — meaning the dispute will *never* proceed to the IDR’s “select[ion]” between offers under subparagraph (A), *id.* By contrast, the IDR’s payment-amount determination under subparagraph (A) follows the entirely different process set forth in the statute. 42 U.S.C. §300gg-111(c)(5)(A).

The fact that any eligibility review done by IDR entities is the product of regulations should be dispositive. Basic “separation-of-powers” principles bar “reading legislation, absent clear statement, to place in executive hands authority to remove cases from the Judiciary’s domain.” *Kucana*, 558 U.S. at 237. The NSA has no such clear statement. Because the NSA’s text “does not contemplate an eligibility determination process,” 91 Fed. Reg. at 33,942, reading eligibility into the judicial-review bar would mean that agency regulations—not the statute—limit federal courts’ jurisdiction to decide claims alleging widespread eligibility fraud. Yet “judicial review is hardly the kind of question that the Court presumes that Congress implicitly delegated to an agency.” *Salinas v. R.R. Ret. Bd.*, 592 U.S. 188, 201 (2021).

* * *

In short, every interpretative tool points the same way: The NSA’s judicial-review bar has a narrow scope that only precludes review (as Congress said) of a “[p]ayment determination.” 42 U.S.C. §300gg-111(c)(5). Congress certainly did not speak clearly enough to strip jurisdiction over suits targeting systemic eligibility fraud by nonparties.

B. The NSA Cannot Preclude BCBSTX’s Other Theories.

Even if the NSA’s judicial-review bar applied to fraud regarding eligibility for IDR disputes, however, there still would be no basis to dismiss those portions of BCBSTX’s case that do not even arguably challenge any IDR award. This includes BCBSTX’s (1) fraudulent-inducement claim about private settlements; (2) damages incurred combatting HaloMD’s fraud; and (3) request for injunctive relief.

1. By Definition, Claims Regarding Private Settlements Do Not Challenge Any IDR Award.

The district court never analyzed BCBSTX’s fraudulent-inducement claim about settlements during open negotiations, and for which—by definition—no IDR award was issued. This claim alleges that HaloMD submitted false information to BCBSTX regarding eligibility for federal and

Texas IDR. ROA.820. BCBSTX relied on those misrepresentations and entered into settlement agreements. *Id.* Such settlements are independent contracts tainted by fraud and have nothing to do with the IDR process, much less any nonexistent “payment determination” under “subparagraph (A).” The upshot is that BCBSTX’s fraudulent-inducement claim should survive even under the district court’s reasoning. This Court therefore should remand for merits discovery about BCBSTX’s fraudulent-inducement claim.

2. BCBSTX’s Claim for Damages Incurred to Prevent Fraud Also Does Not Challenge Any IDR Award.

Similarly, even if BCBSTX cannot seek damages from HaloMD as compensation for the more-than-\$100-million worth of IDR awards tainted by HaloMD’s fraud, the district court also erred by holding that damages for increased anti-fraud overhead costs are likewise precluded.

When examining whether claims fall within a jurisdictional bar, the Court must “look[] to the claims brought, the injuries alleged, and, most importantly, the relief sought.” *Harward v. City of Austin*, 84 F.4th 319, 323 (5th Cir. 2023) (per curiam). If the injuries and relief differ from that which is barred, the claims may proceed. For example, the Tax Injunction Act strips

federal courts' jurisdiction over suits that "enjoin, suspend, or restrain the assessment, levy or collection of any tax under State law." *Id.* at 322 (quoting 28 U.S.C. §1341). But that bar does not preclude claims for costs inflicted "separate and apart from" a tax assessment—even if the relief in some way indirectly interferes with the tax assessment. *Id.* at 323.

BCBSTX requests relief "separate and apart from" the fraudulently procured IDR awards. Because HaloMD floods BCBSTX with fraudulent claims intermixed with non-fraudulent claims, knowing there is a ticking clock for BCBSTX to investigate and challenge eligibility, BCBSTX has been forced to spend extraordinary sums building teams and creating systems to review claims on a highly expedited basis to detect HaloMD's fraud. ROA.761, 785, 813-14, 816, 818-820, 837, 839-40. BCBSTX incurs these costs irrespective of whether it wins or loses any particular IDR.

Such anti-fraud overhead costs cannot fall within the NSA's judicial-review bar no matter how broadly it is construed. Precisely because BCBSTX expends massive funds, there often is no IDR award that could be challenged. Nor could BCBSTX collaterally attack an award when it prevails before the IDR entity, yet BCBSTX is still harmed because it must pay for the system that detected HaloMD's fraud. And if BCBSTX detects attempted

fraud and HaloMD declines to institute the IDR process (whether before or after engaging in open negotiations), there is no IDR, but, again, BCBSTX is still harmed. *See, e.g., Visa Inc. v. Sally Beauty Holdings, Inc.*, 651 S.W.3d 278, 304-05 (Tex. App. – Fort Worth 2021, pet. denied) (allowing fraud claim, *inter alia*, based on expenses to investigate data breach and to protect against future harm). The Court should also remand for discovery about this theory.

3. BCBSTX’s Claim for Prospective Injunctive Relief Too Cannot Challenge Nonexistent IDR Awards.

Finally, even if BCBSTX’s *damages* claims were a collateral attack, its request for *injunctive relief* cannot be. Again, such relief is “separate and apart from” any review-barred IDR award. *Harward*, 84 F.4th at 323.

As the Supreme Court recently reiterated, suits seeking a “purely prospective remedy” are not impermissible collateral attacks merely because they “necessarily imply the invalidity of [a] prior” decision. *Olivier v. City of Brandon*, 607 U.S. 552, 556, 564 (2026). Even assuming BCBSTX’s success on its fraud claim for prospective injunctive relief “necessarily implies” that past IDR decisions were incorrect, that does not make *prospective* injunctive relief impermissible. BCBSTX’s claims based on prospective injunctive relief

can proceed “even if, as a kind of byproduct, success in [the current suit] shows that something past should not have occurred.” *Id.* at 566.

Put another way, asking the court to enjoin HaloMD from future fraudulent conduct does not ask for vacatur of an award. This is even clearer considering any objection that HaloMD could make to injunctive relief would be a *merits*—not *jurisdictional*—objection. For example, HaloMD might argue that it cannot be enjoined from submitting IDR claims because the NSA gives nonparty billing companies like itself a right to provide healthcare providers with a claims-submission service, even where (as here) the nonparty billing company commits fraud. Such a merits argument has nothing to do with vacating an award. It also is absurd: “Congress did not intend that bizarre result.” *La Union Del Pueblo Entero v. Abbott*, 151 F.4th 273, 283 (5th Cir. 2025), *cert. denied* (June 29, 2026) (Nos. 25-904 & 25-916). At an absolute minimum, the Court therefore must reverse the district court’s jurisdictional analysis regarding injunctive relief.

C. The District Court’s Analysis Fails.

Despite the foregoing, the district court barred BCBSTX’s claims. The court’s analysis, however, misreads both the NSA and precedent.

1. Eligibility For IDR Is Not “Inherent” in a Payment-Amount Determination.

The district court concluded that BCBSTX’s suit is precluded because eligibility is “inherent” in a payment-amount “determination under subparagraph (A).” ROA.743-44. A provision barring review of one decision, however, does not strip courts of jurisdiction over claims relating to separate decisions. *See Harward*, 84 F.4th at 323. The court’s contrary reading defies the NSA’s text, which does not contemplate an IDR entity resolving eligibility at all. *E.g.*, 91 Fed. Reg. at 33,942. Courts “may not” change “a provision’s reach by inserting words Congress chose to omit,” *Lomax v. Ortiz-Marquez*, 590 U.S. 595, 600 (2020), and must “respect not only what Congress wrote but, as importantly, what it didn’t write.” *Va. Uranium, Inc. v. Warren*, 587 U.S. 761, 765 (2019). And courts cannot conflate “claims [that] are legally distinct.” *Nat’l Institutes of Health v. Am. Public Health Ass’n*, 145 S.Ct. 2658, 2661 (2025) (Barrett, J., concurring).

Nonetheless, the district court read “*qualified* IDR item or service” in subparagraph (A) to suggest that an eligibility decision is inherent in a payment-amount determination. ROA.744-45 (emphasis added). But that does not say that *the IDR entity* decides if the item or service is “qualified.”

Rather, it describes the *type of dispute* for which the IDR entity makes a payment-amount determination. In fact, any payment-amount determination must be made only “*after the qualified IDR items and services are determined eligible.*” 45 C.F.R. §149.510(c)(5)(i),(ii) (emphasis added).

The district court’s reading that eligibility is “inherent” in the payment-amount determination also makes no sense given that it was the Departments—not Congress—that require any eligibility review by IDR entities. Yet (once more) regulations cannot strip courts of jurisdiction. *See Kucana*, 558 U.S. at 248. Regardless, the fact that any eligibility review done by an IDR entity results from regulation means that the Departments could have chosen a different mechanism to police eligibility, including conducting eligibility reviews themselves. *See* 91 Fed. Reg. at 33,942-44. Had they done so, it would be impossible to say *the Departments’* eligibility decision is “inherent” in the *IDR entity’s* payment-amount determination. The court never addressed this obvious flaw in HaloMD’s theory.

Other contexts also show that eligibility is not “inherent” in a later merits determination. As explained above, in arbitration, courts decide arbitrability (*i.e.*, eligibility to arbitrate a dispute), then arbitrators decide the merits. *E.g.*, *AT&T Technologies, Inc. v. Comm’ns Workers of Am.*, 475 U.S. 643,

649 (1986) (arbitrability is “undeniably” for courts); *First Options*, 514 U.S. at 942. In fact, “courts have plenary power to decide the gateway question of a dispute’s ‘arbitrability.’” *Houston Ref., LP v. United Steel, Paper & Forestry, Rubber, Mfg.*, 765 F.3d 396, 408 (5th Cir. 2014). Such questions also are kept separate when courts first decide jurisdiction (in other words, eligibility), and only then the merits. *E.g., Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 101-02 (1998). Although IDR is different from arbitration in other important respects, the NSA’s distinction between eligibility and payment-amount tracks this “fundamental” divide. *Anthology, Inc. v. Tarrant Cnty. Coll. Dist.*, 136 F.4th 549, 553 (5th Cir. 2025).

Finally, to prevail, all BCBSTX must do is show that Congress did not “clearly” preclude jurisdiction, *Bowe*, 607 U.S. at 25; any ambiguity must be construed against dismissal. On this point, too, the district court erred by concluding that precedent holding that Congress does not lightly bar review of agency action is irrelevant. ROA.745. The Supreme Court, however, has not limited its clear-statement rule to review of agency action. *See, e.g., Bowe*, 607 U.S. at 25. Instead, where, as here, Congress has enacted broad jurisdictional statutes, the “well-established principle” that implied repeals of such statutes are disfavored controls. *Gottlieb v. Carnival Corp.*, 436 F.3d

335, 340 (2d Cir. 2006) (citing, *inter alia*, *Colo. River Water Conserv. Dist. v. United States*, 424 U.S. 800, 808 (1976)). The district court’s transformation of the NSA’s narrow judicial-review bar for challenges to payment determinations into a broad jurisdiction-stripping provision effectively blocking any cases touching on IDR defies that principle. In all events, even without a clear-statement rule, nothing in the NSA suggests that Congress stripped courts of jurisdiction here.

2. *Guardian Flight* Is Inapplicable.

The district court also misunderstood *Guardian Flight LLC v. Health Care Service Corp.*, 140 F.4th 271 (5th Cir. 2025), *cert. denied*, 146 S.Ct. 1493 (2026), which answers a different question. *Guardian Flight* involved a suit by providers against a plan administrator alleging that the plan failed to timely pay IDR awards under the NSA. *Id.* at 273. The Court affirmed dismissal because “[t]he NSA expressly bars judicial review of IDR awards.” *Id.* at 275. BCBSTX agrees that parties cannot challenge the substantive merits of IDR payments outside of the vacatur avenues prescribed in the NSA. But that is not what BCBSTX is doing.

Guardian Flight addressed judicial review of actions “to enforce or confirm an IDR award.” *Id.* BCBSTX, however, is not seeking to enforce,

confirm, or vacate any IDR award. Rather, BCBSTX asserts common-law and RICO claims against non-IDR parties for an overarching fraudulent scheme that precedes any IDR award determination. While one of the *remedies* BCBSTX seeks is damages from HaloMD as compensation for awards HaloMD fraudulently caused, BCBSTX is not challenging the awards themselves. ROA.746, 911. Regardless, even if such damages were barred, it would not follow that this *entire lawsuit* would be barred. As explained, BCBSTX also advances theories that have nothing to do with any IDR proceeding or award. *See pp. 37-41, supra.*

3. The Collateral-Attack Doctrine Does Not Bar This Suit.

The district court additionally invoked the Court's collateral-attack doctrine, concluding that BCBSTX's lawsuit necessarily attacks individual IDR awards. That conclusion is wrong both coming and going.

a. To begin, because the collateral-attack doctrine is nowhere found in the NSA's text, it could only be a creature of federal common law. Yet "federal common law is subject to the paramount authority of Congress," and "once Congress addresses a subject ... the task of the federal courts is to interpret and apply statutory law, not to create common law." *N.W. Airlines, Inc. v. Trans. Workers Union of Am., AFL-CIO*, 451 U.S. 77, 95 & n.34 (1981).

Indeed, “separation of powers concerns create a presumption in *favor* of preemption of federal common law whenever it can be said that Congress has legislated on the subject.” *In re Oswego Barge Corp.*, 664 F.2d 327, 335 (2d Cir. 1981) (applying *City of Milwaukee v. Illinois*, 451 U.S. 304, 315 (1981)). Here, because Congress legislated that only individual payment-amount determinations fall within the NSA’s judicial-review bar, courts cannot augment Congress’s enacted language with common law.

b. Regardless, the collateral-attack doctrine does not bar BCBSTX’s claims. The district court constructed a “collateral attack” standard from Black’s Law Dictionary and two cases: *Gulf Petro*, 512 F.3d 742 (2008), and *Texas Brine Co. v. American Arbitration Association*, 955 F.3d 482 (2020). Those cases rely on *Corey v. New York Stock Exchange*, 691 F.2d 1205 (6th Cir. 1982), which held that alleging wrongdoing *in* an arbitration—not eligibility *for* arbitration—was an “impermissible collateral attack” on an award. *Id.* at 1212-13. In *Gulf Petro*, this Court imported *Corey*’s reasoning into the international arbitration context, affirming that a court lacked jurisdiction because claims of alleged fraud, bribery, and corruption by an arbitration panel are “collateral attack[s]” on the award. 512 F.3d at 743-44. *Texas Brine* in turn relied on *Corey* and *Gulf Petro* to hold that claims of alleged fraud by

an arbitration panel constitute an “impermissible collateral attack” on an FAA award. 955 F.3d at 488.

From these cases, the district court concluded that “[t]he Fifth Circuit bars collateral attacks on judgments rendered in judicial and quasi-judicial (e.g., arbitration) proceedings.” ROA.740. But that expands *Gulf Petro* and *Texas Brine* far beyond their logic and holdings: challenges to conduct (1) *during* (2) *formal arbitration* under (3) arbitration conventions that task arbitrators with *deciding the challenged issue*. None of those conditions exist here.

First, as explained above, the challenged fraud here concerns eligibility for the IDR process rather than any IDR award. Yet not only is eligibility a threshold issue that occurs before any merits determination, but courts – not arbitrators – decide eligibility disputes. Black-letter law thus allows more litigation if an arbitrator resolves a non-arbitrable claim. “That is because a party who has not agreed to arbitrate will normally have a right to a court’s decision about the merits of its dispute.” *First Options*, 514 U.S. at 942; *cf. Tejas Motel, LLC v. City of Mesquite by & through Bd. of Adjustment*, 63 F.4th 323, 333 (5th Cir. 2023) (decision by court lacking jurisdiction is a nullity). It is legal error to conflate fraud allegedly done by arbitrators *during*

arbitration (as in *Gulf Petro* or *Texas Brine*) with eligibility fraud by a nonparty *before* an IDR entity is certified (what HaloMD is doing).

Second, the IDR process is not full-blown arbitration regardless. Although IDR provides a “similar service to private, third-party arbitrators,” it has fundamental distinctions. *Mod. Orthopaedics of NJ v. Premera Blue Cross*, 2025 WL 3063648, at *5 (D.N.J. Nov. 3, 2025) (concluding “the IDR process is not an arbitration”). For example, arbitration is voluntary; IDR is not. Arbitration also has procedural safeguards like discovery; IDR does not. So, to the extent *Gulf Petro* and *Texas Brine* establish a rule that applies to arbitration generally, it cannot apply to IDR specifically, which—although in some respects like “arbitrat[ion],” *Guardian Flight, LLC v. Med. Evaluators of Tex. ASO, LLC*, 140 F.4th 613, 623 (5th Cir. 2025)—is different in kind from traditional arbitration in respects critical to the question here.

The district court’s dismissal of such differences is error. Procedural safeguards are essential because the collateral-attack doctrine sounds in res judicata and collateral estoppel, doctrines that prevent a party from having two bites at the apple. As the Court has explained, “the principle at stake is the same” for “res judicata” and skepticism of “collateral attack[s].” *A. Duda & Sons Co-op. Ass’n v. United States*, 495 F.2d 193, 196 (5th Cir. 1974),

withdrawn on other grounds, 504 F.2d 970 (5th Cir. 1974); *see also Trahan v. Superior Oil Co.*, 700 F.2d 1004, 1019 (5th Cir. 1983) (describing “collateral attack” rules as “close cousin[s] of res judicata and collateral estoppel”). Res judicata and collateral estoppel, however, do not apply where (as here) a party did not receive “a full opportunity to make its case” in the initial proceeding. *Duda & Sons*, 495 F.2d at 196; *see also* RESTATEMENT (SECOND) OF JUDGMENTS §28(3) (1982) (preclusion does not apply if procedures in initial proceeding lacked sufficient “quality or extensiveness”). Because res judicata and collateral estoppel cannot apply absent necessary procedural safeguards like discovery or even an opportunity to respond to the other side’s submissions, a collateral attack-doctrine cannot apply either.

Third, it is key to the collateral-attack doctrine that arbitration arises under the New York Convention or the FAA. In cases like *Gulf Petro* or *Texas Brine*, the arbitrator by law was tasked with resolving an arbitrable dispute. By contrast, under the NSA, Congress did not task IDR entities with resolving eligibility. Rather, any eligibility decision made by an IDR entity is a product of regulation, and – again – an agency regulation cannot strip a court of jurisdiction. *See Kucana*, 558 U.S. at 248. This distinction is critical because when it applies, the collateral-attack doctrine helps protect decisions

that Congress tasked arbitrators to make and that Congress presumably wants immunized from review, but not (as here) *other* decisions. In other words, even if the collateral-attack doctrine could apply to IDR, it still would not apply to eligibility determinations because Congress did not task IDR entities with making those determinations.

c. Regardless, there are other significant flaws in the district court's reliance on the collateral-attack doctrine. For example, the collateral-attack doctrine would not apply here even if this litigation concerned FAA arbitration. *Gulf Petro* explains that not all claims "arising from conduct relating to" a prior proceeding are collateral attacks. 512 F.3d at 751 n.5. "[L]awsuits that touch only tangentially" on a prior proceeding thus are not collateral attacks. *Id.* at 751. That is this case: BCBSTX is not relitigating any IDR award but instead alleges that HaloMD and the LaRoques are the perpetrators of a fraudulent eligibility scheme. Eligibility is prior to any IDR award. BCBSTX also alleges, for example, that HaloMD committed fraud in connection with private settlements that never proceeded to an IDR award. Even under the district court's view, that cannot be an "attack on a judgment in a[n] [IDR] proceeding." ROA.740 (quoting BLACK'S LAW DICTIONARY (12th

ed. 2024)); *cf. Rein v. Providian Fin. Corp.*, 270 F.3d 895, 902 (9th Cir. 2001) (no collateral attack if prior decision did not resolve issue).

Precedent, moreover, already blesses claims like BCBSTX's. In *Gulf Petro*, the Court recognized that a "RICO lawsuit" (like this one) alleging "irregularities arising from conduct relating to arbitration ... would be based on harm independent of the arbitration award and therefore could not be construed as a collateral attack." 512 F.3d at 751 n.5. Here, as *Gulf Petro* allows, BCBSTX asserts a RICO claim against nonparties to any IDR and alleges irregularities at most "relating to" IDR payment determinations. *Id.* Therefore, this suit "[can]not be construed as a collateral attack." *Id.* (emphasis added). The district court never addressed this portion of *Gulf Petro*.

The Court also should not lose sight of common sense. If BCBSTX prevails, not a single provider who won an IDR will be ordered to return any money. How then can this litigation be a collateral attack on an IDR award? BCBSTX's goal is not to vacate awards but rather to recoup the monetary value of the awards as *damages* from a nonparty to the IDR process. Under BCBSTX's money-had-and-received claim, for example, BCBSTX can establish that HaloMD "hold[s] money which in equity and good conscience belongs to [BCBSTX]," without vacating any underlying award. *Bank of*

Saipan v. CNG Fin. Grp., 380 F.3d 836, 840 (5th Cir. 2004). HaloMD is not party to any award, yet it retains funds from BCBSTX because of its wrongdoing. That is a classic money-had-and-received claim.

d. The district court also was wrong that attacking HaloMD's fraudulent scheme as a whole is no different than collaterally attacking multiple IDR awards simultaneously. ROA.748-49. Even setting aside that the Supreme Court rejected such reasoning in *McNary*, the Second Circuit also rejected it in a case remarkably similar to this one.

In *Government Employees Insurance Co. v. Patel*, 166 F.4th 280 (2d Cir. 2026), GEICO alleged under RICO that defendants perpetuated a fraudulent scheme to exploit New York's auto-insurance law by submitting millions of dollars' worth of non-reimbursable claims. The Second Circuit correctly treated GEICO's "efforts to prove fraud at a systematic level" as distinct from individual collection actions. *Id.* at 291-92. Just so here. HaloMD and the LaRoques's fraudulent scheme, mirroring the *Patel* defendants' fraudulent scheme, exploits the "fragmented" nature of IDR proceedings. *Id.* at 292. By submitting thousands of ineligible claims in separate proceedings, HaloMD obscures its scheme, and BCBSTX's suit seeks to unveil this fraud "at a systematic level." *Id.* at 291. Because HaloMD's "myriad claims ... look

different when viewed in the aggregate than when viewed in hundreds of individual proceedings,” no individual IDR could address the claims BCBSTX alleges. *Id.* at 292. Due to the systemic nature of the fraud here, BCBSTX’s claims cannot be a collateral attack on any IDR award.

4. BCBSTX’s Request for Prospective Injunctive Relief Can Proceed Independently.

Finally, in rejecting jurisdiction over BCBSTX’s claims for injunctive relief, the district court did not claim that a prospective injunction against HaloMD’s fraud would vacate any nonexistent IDR award. Rather, it observed that injunctions are a “remedy rather than an independent cause of action.” ROA.750. That is a *non sequitur*. The causes of action here include, among others, common-law fraud under Texas law, which indisputably permits injunctive relief. *See, e.g., Golfis v. Houllion*, 2016 WL 6236842, at *6 (Tex. App.—Dallas Oct. 25, 2016, no pet.) (affirming injunction against fraud); *Injunction as Equitable Remedy to Redress Fraud*, 37 AM. JUR. 2D FRAUD & DECEIT §356 (2026) (fraud can be redressed through injunctions).

BCBSTX alleges causes of action for fraud that support prospective injunctive relief whatever the status of BCBSTX’s claimed damages. ROA.811-15, 818-20. As the Court well knows, the same cause of action may

support different types of relief. *See* Fed. R. Civ. P. 8(a)(3) (claim for relief “may include relief in the alternative or different types of relief”). Thus, depending on the circumstances, an action for fraud may be either legal or equitable. *E.g., In re Jensen*, 946 F.2d 369, 371 (5th Cir. 1991). Courts therefore may grant injunctive relief preventing fraud even if damages claims for fraud are dismissed. *See, e.g., Williams v. Glickman*, 936 F. Supp. 1, 6 (D.D.C. 1996) (dismissing claim for damages while allowing equitable relief for fraud to proceed). The district court’s failure to appreciate that BCBSTX’s causes of action allow injunctive relief requires reversal.

II. S.B. 1264 Also Does Not Strip Jurisdiction Over This Case.

A. S.B. 1264 Preserves Jurisdiction Over BCBSTX’s Claims.

The district court also dismissed BCBSTX’s claims related to Texas IDR. Yet S.B. 1264 limits *providers’* rights; it does not strip courts of jurisdiction to resolve claims like BCBSTX’s, *i.e.*, familiar common-law claims against nonparties to IDRs who engage in eligibility-stage fraud or fraud outside of any IDR award. The court erred by inferring a jurisdiction-stripping provision that the Texas Legislature did not write and extending the collateral-attack doctrine beyond recognition.

1. S.B. 1264 Allows Claims Like BCBSTX's.

At the outset, a key point bears emphasis: S.B. 1264 extinguished *providers'* right to sue patients and it altered *providers'* rights with respect to seeking recovery from health plans. But S.B. 1264 neither granted nor extinguished any rights against an entity that is not a healthcare provider, including HaloMD and the LaRoques. The notion, therefore, that S.B. 1264 strips courts of jurisdiction over claims by a health-insurance company like BCBSTX against nonparties to IDR like HaloMD and the LaRoques fundamentally inverts the statute. The baseline rule has always been that BCBSTX could sue companies that defraud it. The question, therefore, is whether the Legislature took that right away. It did not.

Texas courts read statutes “as they are written,” *In re K.M.L.*, 443 S.W.3d 101, 109 (Tex. 2014), and “are reluctant to conclude that a statutory requirement affects a court’s subject-matter jurisdiction absent clear legislative intent to that effect,” *Guardianship of Fairley*, 650 S.W.3d 372, 379 (Tex. 2022). That rule is dispositive here because S.B. 1264 does not contain *any* judicial-review bar on existing common-law claims for independently tortious conduct against parties with no rights in the IDR—not even a narrow one. To the contrary, remedies under S.B. 1264 “are in *addition* to any

other defense, *remedy*, or *procedure* provided by law, including the common law.” Tex. Ins. Code §1467.004 (emphasis added). That a plaintiff can obtain a common-law remedy in addition to other remedies necessarily means that S.B. 1264 does not preclude jurisdiction here.

To be sure, this does not mean that all existing common-law suits are allowed. Where the Legislature enacts a statutory cause of action, a party cannot use the common law to nullify that statute’s specific requirements.⁴ But that is not the question here. BCBSTX alleges preexisting common-law causes of action that no statutory provision remotely addresses and that are based on tortious conduct independent of the IDR award.

Other provisions of S.B. 1264 settle the point. S.B. 1264’s only reference to judicial review of an IDR decision is Section 1467.089(b), which says that, within 45 days of an “arbitrator’s decision under Section 1467.088, a party not satisfied with the decision may file an action to determine the payment

⁴ For example, Section 1467.004 does not provide an avenue for lawsuits on behalf of providers challenging payments for out-of-network services. Such claims must be brought under the statutory-mandated cause of action. Even under the common law, providers are not *ipso facto* third-party beneficiaries of their patients’ health-insurance contracts. *See, e.g., Electrostim Med. Services, Inc. v. Health Care Serv. Corp.*, 962 F. Supp. 2d 887, 900 (S.D. Tex. 2013), *aff’d in part, rev’d in part*, 614 F.App’x 731 (5th Cir. 2015).

due to an out-of-network provider.” *Id.* §1467.089(b).⁵ Subsection (c) then provides that the standard of review of such an action is “substantial evidence.” *Id.* §1467.089(c). But that language is not a limit on judicial review—it is an authorization for parties to relitigate even the arbitrator’s payment-amount determination. Nothing in that language limits parties’ ability to file or courts’ ability to decide, *inter alia*, pre-existing common-law causes of action alleging that nonparties like HaloMD and the LaRoques engage in widespread common-law fraud regarding eligibility.

As with the NSA, moreover, nothing in S.B. 1264 suggests that courts lack jurisdiction over fraudulently induced settlement agreements, costly anti-fraud systems that BCBSTX was forced to create and pay for to combat HaloMD’s deceit, or requests for prospective injunctive relief that, necessarily, cannot challenge an IDR award. *See pp. 37-41, supra.*

⁵ Notably, only some types of services may result in IDR decisions. For disputes with facility providers, S.B. 1264 mandates nonbinding mediation and creates a cause of action for *insurers* and *providers*. Tex. Ins. Code § 1467.0575. That provision is irrelevant to claims against third parties like HaloMD.

2. Texas Law Favors Judicial Review.

The district court's error is especially apparent, moreover, when judged against the backdrop of the Texas Constitution. Article I, Section 13 of the Texas Constitution guarantees that "[a]ll courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law." This provision deprives the Texas Legislature of "the power to deny the citizen the right to resort to the courts for the redress of any intentional injury to his person by another." *Middleton v. Tex. Power & Light Co.*, 185 S.W. 556, 560 (Tex. 1916). The Legislature thus generally "may not abrogate the right to assert a well-established common law cause of action." *Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 448 (Tex. 1993). Given that bedrock constitutional guarantee, Texas courts "construe all statutes to ... protect the rights of claimants to file meritorious lawsuits." *Maypole v. Acadian Ambulance Serv., Inc.*, 647 S.W.3d 533, 541 (Tex. App.—Dallas 2022, no pet.).

S.B. 1264 must be interpreted according to these Texas principles. BCBSTX asserts fraud and other "well-established common law cause[s] of action." *Tex. Ass'n of Bus.*, 852 S.W.2d at 448. The Court thus should resolve any doubts here in favor of jurisdiction. *See id.* Because nothing in S.B. 1264

limits jurisdiction, let alone limits on jurisdiction for the types of claims here, including existing common-law claims alleging eligibility fraud against defendants who are not parties to any IDR, and because the Legislature expressly preserved those common-law remedies, the Court cannot affirm the district court's jurisdictional ruling.

3. Eligibility Decisions Do Not Fall Under S.B. 1264's 45-Day Review Window.

Regardless, even if certain provisions of S.B. 1264 could be construed as implicitly stripping courts of jurisdiction without the Legislature clearly saying so, BCBSTX's claims – which focus on HaloMD and the LaRoques's scheme to defraud at the eligibility stage – still would not be barred.

To the extent Section 1467.089's 45-day deadline or substantial-evidence standard can be construed as stripping jurisdiction, they apply to the IDR entity's amount determination only, *i.e.*, the "arbitrator's decision under Section 1467.088." Tex. Ins. Code §1467.089(b). That decision is the arbitrator's "select[ion]" of the "award amount" – nothing more. *Id.* §1467.088(a)(2). In fact, S.B. 1264 provides that "[t]he *only issue* that an arbitrator may determine under this subchapter is the reasonable amount" for the provider's services. *Id.* §1467.083(a) (emphasis added). On its face,

that “only issue” does not include eligibility. Suffice it to say, in Texas “‘only’ means only.’” *Fort Worth Trans. Auth. v. Rodriguez*, 547 S.W.3d 830, 844 (Tex. 2018) (quoting *United States v. Diaz-Gomez*, 680 F.3d 477, 480 (5th Cir. 2012)) (cleaned up).

Other provisions of S.B. 1264 confirm that IDR entities do not decide eligibility. S.B. 1264, for example, lays out what they may consider. *See* Tex. Ins. Code §1467.083(b); 28 Tex. Admin. Code §21.5021(g)(3) (declaring that “arbitrator[s] must evaluate *only* the factors specified in Insurance Code §1467.083”) (emphasis added). Those factors have everything to do with the mathematical calculation of the value of the service – and nothing to do with whether the claim was eligible for IDR. For example, the IDR entity must look at “fees paid ... for the same services ... to other enrollees,” the provider’s “training, education, and experience,” and the “80th percentile of all billed charges for the service ... in the same geozip area.” Tex. Ins. Code §1467.083(b). Nothing in that list has anything to do with eligibility.

The Texas Supreme Court has observed that “if Chapter 1467” – where S.B. 1264 is codified – “tells us anything about the 86th Legislature’s intent, it is that determining the amount that an out-of-network provider should be paid by an insurer is a technical exercise to be performed by a subject-matter

expert.” *Tex. Med. Res., LLP v. Molina Healthcare of Tex., Inc.*, 659 S.W.3d 424, 436 (Tex. 2023). BCBSTX agrees. Conversely, though, those “subject-matter expert[s],” *id.*, are limited to that determination “only,” Tex. Ins. Code §1467.083(a), which does not include investigating facts to assess earlier, distinct eligibility fraud cutting across thousands of claims.

B. The District Court’s Analysis Again Fails.

With little analysis, the district court inferred a jurisdiction-stripping provision and deemed BCBSTX’s suit an impermissible collateral attack. But S.B. 1264 contains no judicial-review bar for claims like those here, and Texas’s collateral-attack doctrine does not extend to suits like BCBSTX’s. At a minimum, as with the NSA, BCBSTX’s claims about fraudulently induced settlements, anti-fraud overhead costs, and prospective injunctive relief cannot be barred even accepting the district court’s erroneous analysis.

1. S.B. 1264’s Text Does Not Bar BCBSTX’s Claims.

The district court acknowledged that “the Texas Insurance Code does not limit judicial review in the same manner as the NSA.” ROA.753. Still, it drew an “inference” from S.B. 1264’s 45-day filing window that the Legislature “did not intend to provide a mechanism” to challenge eligibility. ROA.754. That is not how Texas law works. “In the absence of express

statutory language prohibiting judicial review, a legislative intent to prohibit judicial review must be established by specific legislative history or other reliable evidence of intent.” *Texas Dep’t of Protective & Regul. Servs. v. Mega Child Care, Inc.*, 145 S.W.3d 170, 199 (Tex. 2004). Nothing in S.B. 1264 indicates that the Legislature intended to bar common-law fraud claims under S.B. 1264, let alone lawsuits alleging a fraudulent scheme at the eligibility stage spanning thousands of ineligible IDR claims. On the contrary, that the Legislature expressly preserved pre-existing common-law remedies is affirmative proof that the Legislature did *not* preclude jurisdiction.

The district court also said that BCBSTX’s reading of the statute makes the 45-day window superfluous. ROA.753-54. It took issue with the fact that reading that deadline to apply only to payment-amount determinations “would allow a dissatisfied party to challenge a Texas IDR award for any reason and without a time constraint so long as the dissatisfied party did not challenge the reasonableness of the award.” ROA.754. But there is no superfluity where lawsuits are about different things, and common-law remedies are subject to their own statutes of limitation. *E.g.*, Tex. Civ. Prac. & Rem. Code §16.004(a)(4). BCBSTX’s reading respects the Legislature’s choice to cabin the window for one type of challenge (the mathematical

calculation of the award amount) but not others (e.g., fraud) that might take more time to discover and develop.

More generally, if the Legislature wished to apply the 45-day filing window to any IDR-related case, it would have said so. Instead, the window applies only to the “select[ion]” of the “award amount,” Tex. Ins. Code §1467.088(a), and the Legislature preserved “any other ... remedy ... provided by ... the common law,” *id.* §1467.004. The district court had no answer for “only” in Section 1467.088(c) and effectively read Section 1467.004 out of Texas law. Texas courts, however, “presume the Legislature chose its words with care” and strive to read a “statute to give effect to all its terms.” *NuStar Energy, LP v. Hancock*, 731 S.W.3d 288, 295 (Tex. 2026). The district court’s reading also undermines the Texas Constitution’s open-courts guarantee. The court was required to “construe” the statute in *favor* of jurisdiction, not *against* it. *Maypole*, 647 S.W.3d at 541.

2. BCBSTX’s Claims Again Are Not a Collateral Attack.

The district court did not cite a single case to support its view that BCBSTX’s lawsuit constitutes an impermissible “collateral attack” on Texas IDR awards. That’s because Texas law says the opposite.

In Texas, “[c]ollateral attacks on final judgments are generally disallowed because it is the policy of the law to give finality to the judgments of the courts.” *Browning v. Prostok*, 165 S.W.3d 336, 345 (Tex. 2005). “Only a void judgment may be collaterally attacked.” *Id.* at 346. A judgment is void if “the court rendering judgment had no jurisdiction over the parties or property, no jurisdiction over the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act.” *Id.* (cleaned up).

True, the doctrine may protect orders with “the effect of a judgment rendered by a district court.” *Id.* Collateral attacks thus may be impermissible for quasi-judicial orders like agency determinations or decisions reached by formal arbitration. See *Edmiston v. Harris Cty.*, 2012 WL 3612436, at *3-4 (Tex. App.—Houston [14th Dist.] Aug. 23, 2012, no pet.); *Rapid Settlements, Ltd. v. SSC Settlements, LLC*, 251 S.W.3d 129, 141 (Tex. App.—Tyler 2008, no pet.). But IDR arbitrators are not agency officials, and their decisions are not “promulgated in a formal manner through the administrative hearing procedures.” *Edmiston*, 2012 WL 3612436, at *3. Nor is Texas IDR subject to ordinary arbitration rules. Not only is IDR “not subject to” the Texas Arbitration Act, Tex. Ins. Code §1467.085(b), but it’s not even voluntary. Yet the collateral-attack doctrine applies to formal

arbitration because “parties can contract to be bound to an arbitrated judgment.” *Blue Cross Blue Shield of Tex. v. Juneau*, 114 S.W.3d 126, 136 (Tex. App. – Austin 2003, no pet.).

Regardless, if the Legislature intended the collateral-attack doctrine to ever apply under S.B. 1264, it could not apply here. Alleging that HaloMD and the LaRoques – nonparties to IDR – engage in widespread fraud about eligibility is not a collateral attack on anything. And BCBSTX’s claims certainly cannot be an *impermissible* collateral attack. Texas allows collateral attacks if “the court rendering judgment” had “no capacity to act.” *Browning*, 165 S.W.3d at 346. HaloMD committed fraud by submitting claims to IDR arbitrators who, by statute, lacked capacity to resolve ineligible claims.

Furthermore, “when a party does not seek to set aside a prior judgment, but instead brings suit based on extrinsic fraud, the action is not a collateral attack.” *Id.* at 347. “Extrinsic fraud is fraud that denies a losing party the opportunity to fully litigate at trial.” *Id.* This distinction matters because, even assuming the collateral-attack doctrine applies to IDR, Texas law allows challenges to “extrinsic fraud.” *Id.* BCBSTX’s claims, moreover, readily fall into the extrinsic-fraud category. HaloMD commits fraud by knowingly submitting ineligible claims. That fraud occurs before a Texas

IDR arbitrator is selected and precedes the “only” adversarial IDR decision, Tex. Ins. Code §1467.088(c) – the selection of an award amount. BCBSTX also alleges that HaloMD commits fraud with respect to private settlements, which can only be extrinsic to a nonexistent IDR award.

State v. Durham, 860 S.W.2d 63 (Tex. 1993), is instructive. There, a court approved an oil and gas lease. *Id.* at 64-65. Decades later, the State sued, alleging that the lease was a sham to defraud the State of royalties. *Id.* The defendants argued this was an impermissible collateral attack on the order approving the lease. *Id.* at 67. The Texas Supreme Court disagreed. The suit was not an impermissible collateral attack because it had “not sought to set aside the judgment” but rather alleged fraud “extrinsic to the judgment.” *Id.* Barring such suits would allow fraudsters to be “home free” so long as they received a judgment. *Id.* So too here. BCBSTX does not seek to set aside any IDR award but rather attacks extrinsic fraud. HaloMD and the LaRoques cannot commit fraud and get away “home free.” *Id.*

III. At a Minimum, Dismissal Should Be Without Prejudice.

Finally, Rule 12(b)(1) dismissals must be without prejudice because a court without jurisdiction cannot decide a case. *E.g., Spivey v. Chitimacha*

Tribe of LA, 79 F.4th 444, 448-49 (5th Cir. 2023). BCBSTX thus should be free to refile its claims. *Id.* HaloMD cannot have it both ways.

CONCLUSION

The Court should reverse the district court's dismissal for lack of jurisdiction and remand for further proceedings.

September 18, 2026

Respectfully submitted,

s/ Aaron L. Nielson

Jessica A. Lee
KIRKLAND & ELLIS LLP
4550 Travis Street
Dallas, TX 75205
Telephone: (214) 972-1770

Aaron L. Nielson
Rachel L. Daley
Paige S. Fish
KIRKLAND & ELLIS LLP
401 W. 4th Street
Austin, TX 78701
Telephone: (512) 678-9100

Counsel for Plaintiff-Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above appellate brief was filed electronically on September 18, 2026, and will therefore be served electronically upon all counsel.

s/ Aaron L. Nielson

Aaron L. Nielson

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing brief complies with Fed. R. App. P. 32(a)(7)(B) and (C) because it contains 12,855 words. The brief also complies with the typeface and style requirements of Fed. R. App. P. 32(a)(5) & 32(a)(6) because it has been prepared in a proportionally spaced, Roman style typeface of 14 points or more.

s/ Aaron L. Nielson

Aaron L. Nielson

**In the United States Court of Appeals
for the Fifth Circuit**

No. 26-40316

BLUE CROSS BLUE SHIELD OF TEXAS,
PLAINTIFF-APPELLANT,

v.

HALOMD LLC, ET AL.,
DEFENDANT-APPELLEE

On Appeal from the U.S. District Court
for the Eastern District of Texas
Case No. 5:25-cv-00132-RWS

RECORD EXCERPTS

Jessica A. Lee
KIRKLAND & ELLIS LLP
4550 Travis Street
Dallas, TX 75205
Telephone: (214) 972 1770

Aaron L. Nielson
Rachel L. Daley
Paige S. Fish
KIRKLAND & ELLIS LLP
401 W. 4th Street
Austin, TX 78701
Telephone: (512) 678-9100

Counsel for Plaintiff-Appellant

September 18, 2026

CONTENTS

TAB	Description	ROA Pages
1	District Court Docket Sheet	1-10
2	Dkt. 64 - Order on Motions to Dismiss and Defendants' Motion to Stay Discovery	738-755
3	Dkt. 65 - Notice of Appeal	756-757

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Record Excerpts was filed electronically on September 18, 2026, and will therefore be served electronically upon all counsel.

s/ Aaron L. Nielson

Aaron L. Nielson

TAB 1

[Jump to Docket Table](#)

**U.S. District Court
Eastern District of TEXAS [LIVE] (Texarkana)
CIVIL DOCKET FOR CASE #: 5:25-cv-00132-RWS**

Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company v. HALOMD, LLC et al

Assigned to: District Judge Robert W. Schroeder, III

Case in other court: 5CA, 26-40316

Cause: 28:1332 Diversity-Racketeering (RICO) Act

Date Filed: 08/28/2025

Jury Demand: None

Nature of Suit: 470 Racketeer/Corrupt

Organization

Jurisdiction: Diversity

Plaintiff

**Blue Cross Blue Shield of Texas, a
Division of Health Care Service
Corporation, a Mutual Legal Reserve
Company**

represented by **Jamie R. Kurtz**
Robins Kaplan LLP
800 Lasalle Ave
2800 Lasalle Plaza
Minneapolis, MN 55402
612-349-8500
Fax: 612-339-4181
Email: jkurtz@robinskaplan.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Geoffrey Patton Culbertson
Patton Tidwell & Culbertson, LLP - Texarkana
2800 Texas Boulevard
Texarkana, TX 75503
903/792-7080
Fax: 903/792-8233
Email: gpc@texarkanalaw.com
ATTORNEY TO BE NOTICED

Jacqueline Fielding
Robins Kaplan LLP
131 E 23rd St
Ste Apt 12g
New York, NY 10010
612-735-1200
Email: jfielding@robinskaplan.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

John Harting
Robins Kaplan LLP
800 Lasalle Ave
Suite 2800

Minneapolis, MN 55402
612-349-8787
Email: jharting@Robinskaplan.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Joseph T Janochoski
Robins Kaplan LLP
800 LaSalle Avenue
Suite 2800
Minneapolis, MN 55402
612-349-8738
Fax: 612-339-4181
Email: jjanochoski@robinskaplan.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Kelly B Tidwell
Patton Tidwell & Culbertson
2800 Texas Blvd
PO Box 5398
Texarkana, TX 75505-5398
903/792-5859
Fax: 19037928233
Email: kbt@texarkanalaw.com
ATTORNEY TO BE NOTICED

Kyle Nelson
Robins Kaplan LLP
800 LaSalle Ave
Suite 2800
Minneapolis, MN 55402
612-349-8500
Email: knelson@robinskaplan.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Nathaniel Moore
Robins Kaplan LLP
800 LaSalle Ave
Ste 2800
Minneapolis, MN 55402
612-349-8500
Email: nmoore@robinskaplan.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

HALOMD, LLC

represented by **Michael Alan Swartzendruber**
Norton Rose Fulbright US LLP

2200 Ross Avenue
Suite 3600
Dallas, TX 75201-7932
214/855-8000
Fax: 12148558200
Email:
michael.swartzendruber@nortonrosefulbright.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Geraldine W Young
Norton Rose Fulbright
1550 Lamar
Suite 2000
Houston, TX 77010
713-651-5437
Email: geraldine.young@nortonrosefulbright.com
ATTORNEY TO BE NOTICED

William David Carter , Sr
Mercy Carter, L.L.P.
5520 Christus Drive
Suite A
Texarkana, TX 75503
903-794-9419
Fax: 903-794-1268
Email: wdcarter@texarkanalawyers.com
ATTORNEY TO BE NOTICED

Defendant

ALLA LAROQUE

represented by **Michael Alan Swartzendruber**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Geraldine W Young
(See above for address)
ATTORNEY TO BE NOTICED

William David Carter , Sr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

SCOTT LAROQUE

represented by **Michael Alan Swartzendruber**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Geraldine W Young
(See above for address)
ATTORNEY TO BE NOTICED

William David Carter , Sr
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/28/2025	<u>1 (p.11)</u>	MOTION for Leave to File Under Seal by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Attachments: # <u>1 (p.11)</u> Proposed Order)(Culbertson, Geoffrey) (Entered: 08/28/2025)
08/28/2025	<u>2</u>	Sealed Complaint. (Attachments: # <u>1 (p.11)</u> Civil Cover Sheet)(Culbertson, Geoffrey) (Entered: 08/28/2025)
08/28/2025	<u>3 (p.758)</u>	REDACTION to <u>2</u> Sealed Document <i>Complaint</i> by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Attachments: # <u>1 (p.11)</u> Civil Cover Sheet)(Culbertson, Geoffrey) (Entered: 08/28/2025)
08/29/2025	<u>4 (p.16)</u>	Fed. R. Civ. P. 7.1(a)(2) Disclosure Statement identifying party citizenship filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Culbertson, Geoffrey) (Entered: 08/29/2025)
08/29/2025		Case assigned to District Judge Robert W. Schroeder, III. (psm) (Entered: 08/29/2025)
08/29/2025		Filing fee: \$ 405.00, receipt number 600069972 (jbe) (Entered: 08/29/2025)
08/29/2025		In accordance with the provisions of 28 USC Section 636(c), you are hereby notified that a U.S. Magistrate Judge of this district court is available to conduct any or all proceedings in this case including a jury or non-jury trial and to order the entry of a final judgment. The form <u>Consent to Proceed Before Magistrate Judge</u> is available on our website. All signed consent forms, excluding pro se parties, should be filed electronically using the event <i>Notice Regarding Consent to Proceed Before Magistrate Judge</i> . (psm) (Entered: 08/29/2025)
08/29/2025	<u>5 (p.18)</u>	SUMMONS Issued as to HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE. Deliverd to plaintiff for service. (Attachments: # <u>1 (p.11)</u> Halo Summons, # <u>2</u> Alla Summons)(psm) (Entered: 08/29/2025)
09/02/2025	<u>6 (p.24)</u>	NOTICE of Attorney Appearance - Pro Hac Vice by Nathaniel Moore on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11064572. (Moore, Nathaniel) (Entered: 09/02/2025)
09/02/2025	<u>7 (p.26)</u>	NOTICE of Attorney Appearance - Pro Hac Vice by Jamie R. Kurtz on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11065658. (Kurtz, Jamie) (Entered: 09/02/2025)
09/02/2025	<u>8 (p.28)</u>	NOTICE of Attorney Appearance - Pro Hac Vice by Jacqueline Fielding on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11065747. (Fielding, Jacqueline) (Entered: 09/02/2025)

09/03/2025	<u>9 (p.30)</u>	NOTICE of Attorney Appearance - Pro Hac Vice by Kyle Nelson on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11067721. (Nelson, Kyle) (Entered: 09/03/2025)
09/22/2025	<u>10 (p.33)</u>	AGREED MOTION for Extension of Time to File Answer , <i>Move, or Otherwise Respond to Plaintiff's Complaint</i> by All Defendants. (Attachments: # <u>1 (p.11)</u> Proposed Order)(Young, Geraldine) (Entered: 09/22/2025)
09/24/2025	<u>11 (p.37)</u>	ORDER granting <u>10 (p.33)</u> Motion for Extension of Time to Answer. It is ORDERED that Defendants answer, move, or otherwise respond to Plaintiff's complaint by November 18, 2025. Signed by District Judge Robert W. Schroeder, III on 9/24/2025. (slo) (Entered: 09/24/2025)
11/07/2025	<u>12 (p.38)</u>	ORDER granting <u>1 (p.11)</u> Motion for Leave to File Under Seal. It is ORDERED that Plaintiff's complaint (Docket No. 2) shall remain SEALED. Signed by District Judge Robert W. Schroeder, III on 11/7/2025. (slo) (Entered: 11/07/2025)
11/13/2025	<u>13 (p.39)</u>	UNOPPOSED MOTION for Leave to File Excess Pages <i>for Defendants' Motions to Dismiss</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE. (Attachments: # <u>1 (p.11)</u> Proposed Order)(Young, Geraldine) (Entered: 11/13/2025)
11/14/2025	<u>14 (p.43)</u>	ORDER granting <u>13 (p.39)</u> Motion for Leave to File Excess Pages. It is ORDERED that Defendants may file their joint motions to dismiss in excess of the Court's 30-page limit, but the joint filing may not exceed 42 pages. Signed by District Judge Robert W. Schroeder, III on 11/14/2025. (slo) (Entered: 11/14/2025)
11/18/2025	<u>15 (p.44)</u>	MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> by All Defendants. (Attachments: # <u>1 (p.11)</u> Appendix Exhibit Index, # <u>2</u> Affidavit/Declaration, # <u>3 (p.758)</u> Exhibit 1, # <u>4 (p.16)</u> Exhibit 2, # <u>5 (p.18)</u> Exhibit 3, # <u>6 (p.24)</u> Exhibit 4, # <u>7 (p.26)</u> Exhibit 5, # <u>8 (p.28)</u> Exhibit 6, # <u>9 (p.30)</u> Exhibit 7, # <u>10 (p.33)</u> Exhibit 8, # <u>11 (p.37)</u> Exhibit 9, # <u>12 (p.38)</u> Exhibit 10, # <u>13 (p.39)</u> Proposed Order)(Swartzendruber, Michael) (Entered: 11/18/2025)
11/20/2025	<u>16 (p.185)</u>	NOTICE of Attorney Appearance - Pro Hac Vice by John Harting on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11216939. (Harting, John) (Entered: 11/20/2025)
11/20/2025	<u>17 (p.187)</u>	NOTICE of Readiness for Scheduling Conference by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Culbertson, Geoffrey) (Entered: 11/20/2025)
11/24/2025	<u>18 (p.189)</u>	UNOPPOSED MOTION for Extension of Time to File Response/Reply as to <u>15 (p.44)</u> MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> , UNOPPOSED MOTION for Leave to File Excess Pages by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Attachments: # <u>1 (p.11)</u> Proposed Order)(Nelson, Kyle) (Entered: 11/24/2025)
11/25/2025	<u>19 (p.192)</u>	ORDER granting <u>18 (p.189)</u> Motion for Extension of Time and to Exceed Page Limit. Accordingly, it is ORDERED that Plaintiff respond to Defendants' Motion to Dismiss by no later than January 16, 2026. It is further ORDERED that Plaintiffs response to Defendants Motion to Dismiss may exceed the Court's 30-page limit but shall not

		exceed 40 pages. Signed by District Judge Robert W. Schroeder, III on 11/25/2025. (psm) (Entered: 11/25/2025)
12/03/2025	<u>20</u> (p.193)	NOTICE of Attorney Appearance by Kelly B Tidwell on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Tidwell, Kelly) (Entered: 12/03/2025)
01/16/2026	<u>21</u> (p.194)	RESPONSE in Opposition re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> filed by <i>Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company</i> . (Kurtz, Jamie) (Entered: 01/16/2026)
01/20/2026	<u>22</u> (p.244)	UNOPPOSED MOTION for Extension of Time to File Response/Reply <i>in support of Defendants' Joint Motions to Dismiss</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 01/20/2026)
01/20/2026	<u>23</u> (p.249)	ORDER granting <u>22</u> (p.244) Motion for Extension of Time to File Response. It is ORDERED that Defendants shall file their reply in support of their Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15) no later than February 6, 2026. Signed by District Judge Robert W. Schroeder, III on 1/20/2026. (slo) (Entered: 01/20/2026)
02/03/2026	<u>24</u> (p.250)	AGREED MOTION for Leave to File Excess Pages by All Defendants. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 02/03/2026)
02/05/2026	<u>25</u> (p.255)	ORDER (Scheduling Conference set for 3/10/2026 at 10:00 AM in Ctrm 319 (Texarkana) before District Judge Robert W. Schroeder III.) Signed by District Judge Robert W. Schroeder, III on 2/5/2026. (slo) (Entered: 02/05/2026)
02/05/2026	<u>26</u> (p.258)	ORDER Setting Hearing on <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> : Motion Hearing set for 3/10/2026 at 10:00 AM in Ctrm 319 (Texarkana) before District Judge Robert W. Schroeder III. Signed by District Judge Robert W. Schroeder, III on 2/5/2026. (slo) (Entered: 02/05/2026)
02/05/2026	<u>27</u> (p.259)	ORDER granting <u>24</u> (p.250) Motion for Leave to File Excess Pages. It is ORDERED that Defendants may file their replies in support of their joint motions to dismiss in excess of the Court's 10-page limit, but the joint filing may not exceed 25 pages. Signed by District Judge Robert W. Schroeder, III on 2/5/2026. (slo) (Entered: 02/05/2026)
02/06/2026	<u>28</u> (p.260)	REPLY to Response re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> filed by <i>HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE</i> . (Young, Geraldine) (Entered: 02/06/2026)
02/10/2026	<u>29</u> (p.291)	UNOPPOSED MOTION for Extension of Time to File Response/Reply as to <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> by <i>Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company</i> . (Attachments: # <u>1</u> (p.11) Proposed Order)(Kurtz, Jamie) (Entered: 02/10/2026)
02/10/2026		

	<u>30</u> (p.295)	NOTICE of Attorney Appearance by William David Carter, Sr on behalf of HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE (Carter, William) (Entered: 02/10/2026)
02/13/2026	<u>31</u> (p.297)	MOTION to Stay <i>Discovery Pending Resolution of Defendants' Rule 12 Motions</i> by All Defendants. (Attachments: # <u>1</u> (p.11) Exhibit A, # <u>2</u> Proposed Order)(Young, Geraldine) (Entered: 02/13/2026)
02/25/2026	<u>32</u> (p.313)	ORDER granting <u>29</u> (p.291) Motion for Extension of Time to File Reply. It is ORDERED that Plaintiff shall file its sur-reply in opposition to Defendants' Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15) no later than February 27, 2026. Signed by District Judge Robert W. Schroeder, III on 2/25/2026. (slo) (Entered: 02/25/2026)
02/25/2026	<u>33</u> (p.314)	ORDER Setting Hearing on <u>31</u> (p.297) MOTION to Stay Discovery Pending Resolution of Defendants' Rule 12 Motions to Dismiss: Motion Hearing set for 3/10/2026 at 10:00 AM in Ctrm 319 (Texarkana) before District Judge Robert W. Schroeder III.Signed by District Judge Robert W. Schroeder, III on 2/25/2026. (slo) (Entered: 02/25/2026)
02/26/2026	<u>34</u> (p.315)	UNOPPOSED MOTION for Extension of Time to File by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Attachments: # <u>1</u> (p.11) Proposed Order)(Kurtz, Jamie) (Entered: 02/26/2026)
02/27/2026	<u>35</u> (p.319)	RESPONSE in Opposition re <u>31</u> (p.297) MOTION to Stay <i>Discovery Pending Resolution of Defendants' Rule 12 Motions filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company.</i> (Kurtz, Jamie) (Additional attachment(s) added on 3/2/2026: # <u>1</u> (p.11) Proposed Order) (slo). (Entered: 02/27/2026)
03/02/2026	<u>36</u> (p.333)	ORDER granting <u>34</u> (p.315) UNOPPOSED MOTION for Extension of Time to File filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. It is ORDERED that Plaintiff shall file its sur-reply in opposition to Defendants' Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15) no later than March 3, 2026. (Motion(s) <u>34</u> (p.315) terminated). Signed by District Judge Robert W. Schroeder, III on 3/2/2026. (slo) (Entered: 03/02/2026)
03/02/2026	<u>37</u> (p.334)	AGREED MOTION for Extension of Time to File <i>PROPOSED DOCKET CONTROL ORDER AND DISCOVERY ORDER JOINTLY BY ALL PARTIES</i> by All Defendants. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 03/02/2026)
03/03/2026	<u>38</u> (p.340)	ORDER granting <u>37</u> (p.334) Motion for Extension of Time to File. Accordingly, it is ORDERED that the parties shall file their joint proposed docket control order and a joint proposed discovery order by no later than March 4, 2026. Signed by District Judge Robert W. Schroeder, III on 3/3/2026. (psm) (Entered: 03/03/2026)
03/03/2026	<u>39</u> (p.341)	SUR-REPLY to Reply to Response re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company.</i> (Kurtz, Jamie) (Entered: 03/03/2026)

03/04/2026	<u>40</u> (p.372)	NOTICE of Designation of Attorney in Charge to Jamie R. Kurtz on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Kurtz, Jamie) (Entered: 03/04/2026)
03/04/2026	<u>41</u> (p.375)	JOINT MOTION for Discovery <i>Order (Unopposed)</i> by All Defendants. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 03/04/2026)
03/04/2026	<u>42</u> (p.387)	JOINT MOTION for Entry of Docket Control Order <i>(Unopposed)</i> by All Defendants. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 03/04/2026)
03/04/2026	<u>43</u> (p.398)	JOINT MOTION for Entry of Docket Control Order <i>FIRST AMENDED DOCKET CONTROL ORDER (UNOPPOSED)</i> by All Defendants. (Attachments: # <u>1</u> (p.11) Proposed Order)(Young, Geraldine) (Entered: 03/04/2026)
03/06/2026	<u>44</u> (p.410)	UNOPPOSED MOTION to Excuse Lead Counsel From Attending the March 10, 2026 Hearing by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Kurtz, Jamie) (Entered: 03/06/2026)
03/06/2026	<u>45</u> (p.413)	DOCKET CONTROL ORDER: Pretrial Conference set for 1/12/2028 at 10:00 AM in Ctrm 319 (Texarkana) before District Judge Robert W. Schroeder III. Amended Pleadings due by 8/13/2027. Discovery due by 7/23/2027. Jury Selection and Jury Trial set for 1/24/2028 at 09:00 AM in Ctrm 319 (Texarkana) before District Judge Robert W. Schroeder III. Motions in Limine due by 12/20/2027. Joint Pretrial Order due by 12/15/2027. Signed by District Judge Robert W. Schroeder, III on 3/6/2026. (slo) (Entered: 03/06/2026)
03/06/2026	<u>46</u> (p.419)	DISCOVERY ORDER. Signed by District Judge Robert W. Schroeder, III on 3/6/2026. (slo) (Entered: 03/06/2026)
03/06/2026	<u>47</u> (p.426)	ORDER. It is ORDERED that the scheduling conference previously set for March 10, 2026 at 10 a.m. in Texarkana, Texas is CANCELLED. The hearing on Defendants Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15) and Defendants Motion to Stay Discovery Pending Resolution of Defendants Rules 12(b)(1) and 12(b)(6) Motions to Dismiss WILL PROCEED as scheduled on March 10, 2026 at 10 a.m. (Motion(s) <u>41</u> (p.375) , <u>43</u> (p.398) , <u>42</u> (p.387) terminated). Signed by District Judge Robert W. Schroeder, III on 3/6/2026. (slo) (Entered: 03/06/2026)
03/06/2026	<u>48</u> (p.428)	JOINT STATUS REPORT <i>regarding Defendants' Motion to Stay Discovery</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE. (Young, Geraldine) (Entered: 03/06/2026)
03/09/2026	<u>49</u> (p.432)	ORDER granting <u>44</u> (p.410) MOTION to Excuse Lead Counsel From Attending the March 10, 2026 Hearing. Signed by District Judge Robert W. Schroeder, III on 3/9/2026. (slo) (Entered: 03/09/2026)
03/10/2026	<u>50</u> (p.433)	Minute Entry for proceedings held before District Judge Robert W. Schroeder III: Motion Hearing held on 3/10/2026 from 10:00 a.m. - 12:55 p.m. re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> filed by SCOTT LAROQUE, ALLA LAROQUE, HALOMD, LLC, <u>31</u> (p.297) MOTION to Stay <i>Discovery Pending Resolution of Defendants' Rule 12 Motions</i> filed by SCOTT LAROQUE, ALLA LAROQUE, HALOMD, LLC. No exhibits. (Court Reporter - Shelly Holmes) (smc) (Entered: 03/10/2026)
03/10/2026		

	<u>51</u> (p.436)	NOTICE of <i>Hearing Presentation</i> by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Attachments: # <u>1</u> (p.11) BCBS of Texas Hearing Presentation)(Culbertson, Geoffrey) (Entered: 03/10/2026)
03/11/2026	<u>52</u> (p.543)	NOTICE of <i>Defendants' Hearing Presentation from March 10, 2026 Hearing</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE (Attachments: # <u>1</u> (p.11) Additional Attachment(s))(Young, Geraldine) (Entered: 03/11/2026)
03/19/2026	<u>53</u> (p.844)	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motions Hearing held on 3/10/26 (Motions Hearing) before Judge Robert W. Schroeder III. Pursuant to LR CV-5.2/LR CR-49.1, this transcript is available for 90 days by viewing in a TXED courthouse lobby or by purchase from Court Reporter/Transcriber: Shelly Holmes, CSR, TCRR, Telephone number: (903) 794-1018 (Shelly_Holmes@txed.uscourts.gov). Thereafter, it will be remotely available via PACER unless redacted or otherwise ordered. The parties have seven (7) days to file a <u>Notice of Intent to Request Redaction</u> to seek redaction of personal identifiers listed in FRCP 5.2/FRCP 49.1. If redaction is requested, the <u>Redaction Request</u> form is due within 21 days. To seek additional redactions, e-file the motion using the <i>Motion to Redact Transcript</i> event. . Redaction request due 4/9/2026. Release of Transcript Restriction set for 6/17/2026. (Holmes, Shelly) (Entered: 03/19/2026)
04/02/2026	<u>54</u> (p.636)	JOINT NOTICE <i>REGARDING MEDIATION</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE re <u>45</u> (p.413) Scheduling Order/Docket Control Order, (Young, Geraldine) (Entered: 04/02/2026)
04/09/2026	<u>55</u> (p.640)	NOTICE of Discovery Disclosure by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE (Young, Geraldine) (Entered: 04/09/2026)
04/09/2026	<u>56</u> (p.643)	NOTICE of Discovery Disclosure by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company (Kurtz, Jamie) (Entered: 04/09/2026)
04/13/2026	<u>57</u> (p.646)	NOTICE of Attorney Appearance - Pro Hac Vice by Joseph T Janochoski on behalf of Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$ 100, receipt number ATXEDC-11477793. (Janochoski, Joseph) (Entered: 04/13/2026)
04/13/2026	<u>58</u> (p.648)	NOTICE OF <i>SUPPLEMENTAL AUTHORITY</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> (Attachments: # <u>1</u> (p.11) Exhibit)(Young, Geraldine) (Entered: 04/13/2026)
04/14/2026	<u>59</u> (p.675)	RESPONSE to <u>58</u> (p.648) Notice (Other), of <i>Supplemental Authority</i> filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. (Janochoski, Joseph) (Entered: 04/14/2026)
04/20/2026	<u>60</u> (p.680)	SECOND NOTICE OF <i>SUPPLEMENTAL AUTHORITY</i> by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> (Attachments: # <u>1</u> (p.11) Exhibit A)(Young,

		Geraldine) (Entered: 04/20/2026)
04/22/2026	<u>61</u> (p.695)	RESPONSE to <u>60</u> (p.680) Notice (Other), <i>Plaintiffs Response To Defendants Second Notice Of Supplemental Authority filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company.</i> (Harting, John) (Entered: 04/22/2026)
04/30/2026	<u>62</u> (p.700)	THIRD NOTICE OF SUPPLEMENTAL AUTHORITY by HALOMD, LLC, ALLA LAROQUE, SCOTT LAROQUE re <u>15</u> (p.44) MOTION to Dismiss <i>PURSUANT TO RULES 12(B)(1) AND 12(B)(6) AND RELATED REQUEST FOR JUDICIAL NOTICE OF PUBLIC DOCUMENTS</i> (Attachments: # <u>1</u> (p.11) Exhibit)(Young, Geraldine) (Entered: 04/30/2026)
05/01/2026	<u>63</u> (p.734)	RESPONSE to <u>62</u> (p.700) Notice (Other), <i>Blue Cross Blue Shield of Texas's Response to Defendants' Third Notice of Supplemental Authority filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company.</i> (Janochoski, Joseph) (Entered: 05/01/2026)
05/22/2026	<u>64</u> (p.738)	ORDER granting <u>15</u> (p.44) Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents; denying as moot <u>31</u> (p.297) Motion to Stay Discovery Pending Resolution of Defendants' Rules 12(b)(1) and 12(b)(6) Motions to Dismiss. Signed by District Judge Robert W. Schroeder, III on 5/22/2026. (slo) (Entered: 05/22/2026)
05/22/2026	<u>65</u> (p.756)	NOTICE OF APPEAL to the Fifth Circuit as to <u>64</u> (p.738) Order on Motion to Stay,, Order on Motion to Dismiss, by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. Filing fee \$605, receipt number ATXEDC-11559651. T.O. form to appellant electronically at <u>Transcript Order Form</u> or US Mail as appropriate. USCA5 electronically notified. Copy of NOA to be sent by US Mail to appellees not electronically noticed. (Kurtz, Jamie) (Entered: 05/22/2026)
06/22/2026		NOTICE of Docketing Notice of Appeal from USCA re <u>65</u> (p.756) Notice of Appeal filed by Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company. USCA Case Number 26-40316 (slo) (Entered: 06/22/2026)

TAB 2

determining the appropriate reimbursement amounts for certain medical items and services. Docket No. 2 (Complaint) at ¶¶ 89–99. As part of this alleged scheme, Plaintiff complains that HaloMD, LLC initiated IDR proceedings for ineligible items, services, and claims. *Id.* at ¶ 12. Plaintiff contends that, in combination with the submission of ineligible items and services for IDR, Defendants used “delay and dump tactics” by “submit[ting] massive numbers of open negotiations and IDR initiations all at once.” *Id.* at ¶¶ 199–201. As a consequence, Plaintiff claims that the alleged scheme has resulted in tens of millions of dollars in ineligible awards for out-of-network providers that are represented by HaloMD in the IDR process. *Id.* at ¶ 331.

Defendants filed the instant motion to dismiss on November 18, 2025, claiming that the Court lacks subject matter jurisdiction, or, alternatively, that Plaintiff has failed to state a claim for relief.² *See generally* Docket No. 15. On February 13, 2026, Defendants moved to stay discovery pending the resolution of the motion to dismiss. Docket No. 31.

LEGAL STANDARD

I. Rule 12(b)(1)

Federal Rule of Civil Procedure 12(b)(1) allows a party to challenge the subject-matter jurisdiction of a federal court to hear a claim. A motion to dismiss under Rule 12(b)(1) is properly granted when the court lacks the statutory or constitutional power to adjudicate the case. *Home Builders Ass’n of Mississippi, Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998). The

² Since the hearing on Defendants’ motions, Defendants have filed three notices of supplemental authority. Docket Nos. 58, 60, 62. The notices alert the Court to orders on motions to dismiss in other district courts concerning similar issues presented here. *See generally* Docket Nos. 58-1, 60-1, 62-1. Defendants ask the Court to take judicial notice of these orders. While Plaintiff opposes the applicability of the supplemental authority, it does not challenge judicial notice. *See* Docket Nos. 59, 61, 63. Accordingly, the Court takes judicial notice of the supplemental authority. *See Prescott v. Catoe*, No. 4:20-CV-00169-ALM-CAN, 2021 WL 11486160, at *1 n.1 (“A court may take judicial notice of publicly available documents, including filings, orders, and judgments from other lawsuits.”).

party asserting jurisdiction bears the burden of proving that subject-matter jurisdiction exists. *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001). A motion to dismiss under Rule 12(b)(1) should be granted “if it appears certain that the plaintiff cannot prove any set of facts in support” of his or her claims. *Sureshot Golf Ventures, Inc. v. Topgolf Int’l, Inc.*, 754 Fed. Appx. 235, 239 (5th Cir. 2018) (citing *Wagstaff v. U.S. Dep’t of Educ.*, 509 F.3d 661, 663 (5th Cir. 2007)). “When a Rule 12(b)(1) motion is filed in conjunction with other Rule 12 motions, the court should consider the jurisdictional attack before addressing any attack on the merits.” *Ramming*, 281 F.3d at 161. In analyzing a motion to dismiss under Rule 12(b)(1), a court may consider: (1) the complaint alone; (2) the complaint supplemented by undisputed facts or evidence in the record; or (3) the complaint supplemented by undisputed facts plus the court’s resolution of disputed facts. *Id.*

II. Collateral Attack

A collateral attack is “[a]n attack on a judgment in a proceeding other than a direct appeal.” *Collateral Attack*, BLACK’S LAW DICTIONARY (12th ed. 2024). The Fifth Circuit bars collateral attacks on judgments rendered in judicial and quasi-judicial (*e.g.*, arbitration) proceedings. *See Tex. Brine Co. v. Am. Arb. Ass’n*, 955 F.3d 482, 487–90 (5th Cir. 2020); *Gulf Petro Trading Co. v. Nigerian Nat’l Petroleum Corp.*, 512 F.3d 742, 747–50 (5th Cir. 2008). In the context of arbitration, the Fifth Circuit has explained that a plaintiff may “be engaged in collateral attacks even though [he or she] d[oes] not attempt to relitigate the facts and defenses of the underlying disputes that had prompted arbitration, but instead . . . alleg[es] that wrongdoing . . . tainted the arbitration proceedings and caused unfair awards.” *Gulf Petro*, 512 F.3d at 750. Thus, “[t]he test for a collateral attack is not merely whether the claims [in the present suit] ‘attempt to relitigate the facts and defenses that were raised in the prior arbitration.’ ” *Tex. Brine*, 955 F.3d at 488 (quoting *Gulf*

Petro, 512 F.3d at 749–59). Instead, courts “look to ‘the relationship between the alleged wrongdoing, purported harm, and arbitration award.’” *Id.* (quoting *Gulf Petro*, 512 F.3d at 749).

ANALYSIS

I. Defendants’ Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15)

Plaintiff complains that Defendants’ scheme involved submitting ineligible claims for IDR under both the No Surprises Act (“NSA”) and Texas law. The Court first considers Plaintiff’s claims in the context of the NSA and federal law before turning to Plaintiff’s claims related to the Texas IDR process.

A. The NSA’s Statutory Bar to Judicial Review of IDR Awards and Collateral Attack

1. The Federal IDR Process

In 2020, Congress passed the NSA to combat predatory healthcare price billing. Docket No. 2 (Complaint) at ¶¶ 33–34. Among other things, the NSA established an IDR process to resolve claims between out-of-network providers and health plans. *Id.* at ¶ 36. The NSA requires the Departments of Health and Human Services, Labor, and Treasury (the “Departments”) to promulgate regulations establishing procedures for IDR. 42 U.S.C. § 300gg-111(c)(2).

To be eligible for IDR, the items and services at issue must fall within the NSA’s scope (*e.g.*, services must be rendered by an out-of-network provider). Docket No. 2 (Complaint) at ¶ 37. The party requesting IDR must provide information related to eligibility and attest that the items and services meet the eligibility requirements. *Id.* at ¶ 40. The party responding to the IDR has an opportunity to dispute eligibility. *See* Docket No. 15 at 10 (“If the non-initiating party believes that the Federal IDR Process is not applicable, the non-initiating party must notify the Departments by submitting the relevant information through the Federal IDR portal as part of the certified IDR entity selection process.” (quoting Docket No. 15-5 at 7)). According to Defendants,

“[i]n 2024, non-initiating parties objected to IDR eligibility 44% of the time, but only 19% of disputes were determined to be ineligible.” *Id.* at 11–12. In fact, Plaintiff acknowledges it challenged the eligibility of at least a portion of the underlying items and services at issue in its IDRs with HaloMD. Docket No. 2 (Complaint) at ¶¶ 109–10, 123, 147.

Within three to six days after an IDR is initiated, the Departments randomly select an IDR entity absent an agreement by the parties. Docket No. 15-4 at 6. Once an IDR entity is selected, the entity has three days to “determine whether the Federal IDR Process is applicable, thereby finalizing the selection.” *Id.* The parties then submit their offers and pay the IDR entity and any administrative fees. *Id.* Within 30 days of the selection of the IDR entity, the entity must determine the payment amount for the item or service and select one of the parties’ competing offers. *Id.* As Plaintiff explains, the IDR entity’s “decision is then binding upon the parties, subject to limited judicial review, and the non-prevailing party is responsible for administrative and IDR [entity] fees.” Docket No. 2 (Complaint) at ¶ 38(g) (citing 42 U.S.C. § 300gg-111(c)(5)(F)). Indeed, the NSA provides that IDR decisions “shall not be subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a)” of the Federal Arbitration Act. 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II).

2. Analysis

Defendants contend that IDR decisions are generally not judicially reviewable and therefore Plaintiff’s claims should be dismissed. Docket No. 15 at 15. Specifically, Defendants argue that the NSA’s bar on judicial review prevents the Court from considering Plaintiff’s claims altogether. *Id.* at 15–16. Defendants also aver that the collateral attack doctrine bars Plaintiff’s claims because the claims would require the parties to “re-adjudicat[e] the ‘over 42,000’ individual IDR disputes [Plaintiff] claims were wrongfully procured and decided.” *Id.* at 16.

Plaintiff argues that the NSA’s statutory bar against judicial review does not preclude their claims because the NSA only prevents review of “payment determination[s],” not eligibility decisions. Docket No. 21 at 9–10 (citing 42 U.S.C. § 300gg-111(c)(5)(E)). According to Plaintiff, “[t]here is no indication—let alone a ‘clear and convincing’ one—that Congress intended to foreclose judicial review of Defendants’ eligibility scheme in the Federal IDR Process.” *Id.* at 10. Plaintiff explains that “[a]lthough the IDR process differ[s] in important respects from arbitration, . . . courts routinely decide whether a dispute is arbitrable.” *Id.* at 12. It argues that the same is true with respect to IDR eligibility. *Id.* Plaintiff further contends that it “is not seeking damages that it sought but failed to procure in the underlying IDR proceedings.” *Id.* at 13. Instead, Plaintiff claims it “seeks damages related to costs for the overhead and resources necessary for [it] to respond to Federal and Texas IDR Processes and administrative fees and costs imposed on [it] as part of the Federal and Texas IDR Processes,” neither of which it could recover in the IDR proceedings. *Id.* at 14. Therefore, according to Plaintiff, its claims are “necessarily not a collateral attack on [the IDR] proceedings.” *Id.*

The Court agrees with Defendants that the NSA forecloses judicial review. The NSA expressly states that “[a] determination of a certified IDR entity under subparagraph (A) . . . shall not be subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of Title 9 [(FAA § 10 (a)).” 42 U.S.C. § 300gg-111(c)(5)(E)(i). The determination under subparagraph (A) includes selecting “one of the offers submitted under subparagraph (B) to be the amount of payment **for such item or service determined under this subsection for purposes of subsection (a)(1) or (b)(1), as applicable.**” *Id.* § 300gg-111(c)(5)(A) (emphasis added). Such a determination “shall be binding upon the parties involved, in the absence of a fraudulent claim or evidence of misrepresentation of facts presented to the” IDR entity. *Id.* at

300gg-111(c)(5)(E)(i). Thus, the NSA prevents this Court from reviewing the more than 42,000 IDR awards at issue in Plaintiff’s suit. *See Guardian Flight, L.L.C v. Health Care Serv. Corp.*, 140 F.4th 271, 275 (5th Cir. 2025) (“The NSA expressly *bars* judicial review of IDR awards *except* as to the specific provisions borrowed from the FAA. . . . The district court correctly reasoned that this bar on judicial review strongly suggests Congress did not insert a private right of action into the statute.”).

Plaintiff offers two reasons why it believes the NSA’s bar on judicial review is inapplicable. First, Plaintiff contends that the bar only applies to “payment determination[s],” not eligibility decisions. Docket No. 21 at 9. Second, Plaintiff argues that its claims are not a collateral attack on the IDR awards and the relief they seek is outside the scope of the NSA’s bar on judicial review. *Id.* Neither of these arguments is persuasive.

First, inherent in the NSA’s bar of judicial review of payment determinations is a limitation on the review of eligibility decisions. If the Court were to conclude that the items and services submitted for payment by Defendants were ineligible under the NSA, then the ultimate payment awards would necessarily be called into question. *See Anthem Blue Cross Life and Health Ins. Co., et al. v. HaloMD, LLC, et al.*, No. 8:25-cv-01467-KES (C.D. Cal. Apr. 9, 2026), ECF No. 135 at 14 (concluding that “Plaintiffs’ other fraud-based claims, like RICO, could not be litigated without deciding whether Defendants made false eligibility attestations, a decision that would necessarily re-examine eligibility determinations made by IDREs.”). In addition, although Plaintiff argues that the only determination made by the IDR entity is “the amount of payment,” its reading of the statute is too narrow because subparagraph (A) also makes clear that the amount of payment is “a determination for a qualified IDR item or service.” 42 U.S.C. § 300gg111(c)(5)(A). This suggests

that Congress did not intend to impliedly provide an avenue for challenging eligibility decisions while expressly foreclosing judicial review of the IDR entities' payment determinations.

The cases on which Plaintiff relies to argue that there is no indication that Congress intended to foreclose judicial review of Defendants' eligibility scheme are inapposite. Each of the cases addresses the legal standard for determining whether Congress intended to prevent judicial review of administrative action, but they are not relevant because the dispute between the parties does not involve a federal agency's decision. *See Mach Mining, LLC v. EEOC*, 575 U.S. 480, 486–89 (2015) (judicial review of whether the Equal Employment Opportunity Commission complied with its duty to attempt conciliation of employment discrimination claims); *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 225–27 (2020) (judicial review of Board of Immigration Appeals' decisions on requests for equitable tolling of deadlines for filing statutory motions to reopen); *Reno v. Cath. Soc. Servs., Inc.*, 509 U.S. 43, 63–64 (1993) (judicial review of Immigration and Naturalization Service determinations respecting illegal aliens' applications for adjustment of status under an alien legalization program). Yet, as Plaintiff points out, “Defendants’ misrepresentations in the IDR Processes were not legitimate government petitioning activities. They were made in the course of **‘private adjudications’ overseen by private companies.**” Docket No. 21 at 35–36 (emphasis added). The cases on which Plaintiff relies are therefore inapplicable since Plaintiff is not challenging administrative actions.

Second, Plaintiff's claims are an impermissible collateral attack on the IDR awards. Plaintiff claims it is “not seeking damages that it sought but failed to procure in the underlying IDR proceedings.” And yet, at the hearing on Defendants' motion, Plaintiff explained its requested damages as follows:

We are not challenging the calculation of th[e] awards. We're saying th[e] awards were obtained through fraud. **So one of our remedies is seeking damages for th[e]**

fraudulently obtained awards. But in addition, we’re seeking damages for the administrative fees and also for the costs and expenses we went through in building out an entire team to respond to this ineligible scheme.

Docket No. 53 at 68:19–69:4 (emphasis added). Based on Plaintiff’s own interpretation of its request for damages, it seeks payment that is largely co-extensive with the losses it allegedly sustained in the form of IDR awards decided against it.³ The question then is whether Plaintiff’s claims can still constitute a collateral attack on the IDR awards even if it seeks administrative fees, costs, and expenses in “building out an entire team to respond to th[e] ineligible scheme.” *Id.* The Court concludes that they can.

The Fifth Circuit’s opinion in *Gulf Petro Trading Company, Inc. v. Nigerian National Petroleum Corporation* is instructive. 512 F.3d 742 (5th Cir. 2008). The plaintiff brought suit in the Eastern District of Texas alleging that a final award in an arbitration held in Switzerland was procured by fraud, bribery, and corruption and seeking to vacate award. *Id.* at 745. The plaintiff argued that its “RICO and state law claims [were] not disguised attempts to vacate or attack” the final arbitration award because “the claims it advances and relief it seeks are analytically distinct from vacatur.” *Id.* at 747, 750. Relying on Sixth Circuit cases involving collateral attacks on domestic arbitration awards,⁴ the Fifth Circuit concluded:

³ Indeed, each of Plaintiff’s claims refers to the impact of Defendants’ alleged actions on the ultimate IDR awards. *See, e.g.*, Docket No. 2 (Complaint) at ¶¶ 222, 242 (explaining regarding Plaintiff’s fraud and negligent misrepresentation claims that “[b]ut for [HaloMD’s] misrepresentations, HaloMD would not have been able to initiate Federal or Texas IDRs for ineligible claims[.]”); *see also id.* at ¶¶ 226, 243, 262, 287, 307, 322 (explaining regarding each of Plaintiff’s claims that Defendants would have been unable to “obtain awards” for ineligible items and services absent Defendants’ alleged conduct).

⁴ In *Corey v. New York Stock Exchange*, the Sixth Circuit explained that a plaintiff’s “claims constitute a collateral attack against the award even though [the plaintiff] is . . . requesting damages for the acts of wrongdoing rather than the vacation, modification or correction of the arbitration award.” 691 F.2d 1205, 1213 (6th Cir. 1982). Similarly, in *Decker v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, the Sixth Circuit affirmed a district court’s order dismissing the case because the “ultimate objective in this damages suit is to rectify the alleged harm [the plaintiff] suffered by

The relief Gulf Petro seeks—the award it believes it should have received, as well as costs, expenses, and consequential damages stemming from the unfavorable award it did receive—shows that its true objective in this suit is to rectify the harm it suffered in receiving the unfavorable Final Award. . . . Though cloaked in a variety of federal and state law claims, Gulf Petro’s complaint amounts to no more than a collateral attack on the Final Award itself.

Id. at 750 (emphasis added). The Fifth Circuit ultimately decided that the case was properly dismissed for lack of subject matter jurisdiction. *Id.* at 753.

So too here. The alleged harm in this case did not result when Defendants submitted items and services for payment under the NSA or when the IDR entities determined that those items or services were eligible for IDR. Rather, the alleged harm resulted from the impact that such submissions and decisions had on the IDR entities’ ultimate payment determinations.⁵ Plaintiff makes this clear in its sur-reply to Defendants’ motion in which it states that Defendants’ alleged “scheme has allowed HaloMD to wrongly obtain awards its clients’ were never entitled to in the first place, while also causing [Plaintiff] to incur substantial economic harms as a result of the fees, costs, and time that must be (wrongly) allocated to the IDR process for these ineligible submissions.” Docket No. 39 at 2 (citing Docket No. 2 (Complaint) at ¶ 12). Plaintiff’s attempts to distance its claims and damages from the IDR awards is therefore unpersuasive. Further, the

receiving a smaller arbitration award than she would have received in the absence of the chairperson’s relationship with [the defendant]” and thus the plaintiff “did not follow the proper procedure for challenging her arbitration award under the FAA.” 205 F.3d 906, 910–11 (6th Cir. 2000).

⁵ The Court also notes that Plaintiff’s interpretation of the statute would lead to untenable results. Assuming, *arguendo*, that Plaintiff were to prevail on its claims, the more than 42,000 IDR awards would remain intact. Thus, the predominant source of damages Plaintiff seeks would only serve to cancel out the amounts it would still owe the out-of-network healthcare providers pursuant to the awards. *Cf. Aetna Health Inc, et al. v. Radiology Partners, Inc., et al.*, No. 3:24-CV-1343 (M.D. Fla. Apr. 16, 2026) (“Allowing Aetna to recover for the IDR awards above what it otherwise would have paid would have the same effect as discarding the administrative process established by Congress.”), ECF No. 105 at 9. This further demonstrates why the Plaintiff’s claims are merely a collateral attack on the IDR awards.

collateral attack doctrine is even more clearly applicable where, as here, Plaintiff *is* attempting to relitigate issues previously decided by the IDR entities (*i.e.*, the eligibility of certain items and claims under the NSA).

Plaintiff's reliance on *Rein v. Providian Financial Corporation* is unpersuasive. Docket No. 39 at 3 (citing 270 F.3d 895, 902 (9th Cir. 2001)). There, the plaintiffs were debtors in separate Chapter 7 bankruptcy proceedings who owed a creditor various amounts in credit card debts. *Id.* at 897. One of the plaintiffs, Frenette, signed an agreement reaffirming the amount he owed the creditor, and the agreement was filed with the bankruptcy court. *Id.* at 898. The plaintiffs later filed suit against the creditor, alleging violations of the automatic stay and discharge provisions of the Bankruptcy Code. *Id.* The district court dismissed the case because, in part, the collateral attack doctrine prevented Frenette from attacking the approval of the reaffirmation agreement in a separate judicial proceeding. *Id.* However, the Ninth Circuit reversed as to Frenette because his "claims were never addressed by a prior order or judgment" and "no adverse proceeding ever was instituted against him." *Id.* at 902.

This case is distinguishable. Plaintiff does not dispute that HaloMD initiated IDR proceedings to resolve payment disputes for certain items and services, nor that the disputes were decided adversely to Plaintiff. In addition, a key issue running through all of Plaintiff's independent causes of action—the eligibility of certain items or services for IDR under the NSA—was decided by the IDR entities, and Plaintiff does not dispute that it had an opportunity to challenge eligibility throughout those proceedings.

Plaintiff also argues that it is "attacking Defendants' [allegedly] fraudulent scheme as a whole," which extends beyond any individual proceeding and is ongoing. Docket No. 39 at 3. However, Plaintiff has not cited any authority suggesting a complaint attacking many IDR or

arbitration awards simultaneously would be immune from the collateral attack doctrine.⁶ Further, the Fifth Circuit rejected a similar argument regarding a “scheme” in *Gulf Petro*. 512 F.3d at 747 (rejecting the plaintiff’s contention that “it has alleged a pattern of racketeering and conspiratorial conduct that, while arising in the context of arbitration proceedings, constitutes an independent violation of federal and state law and compels relief analytically distinct from vacatur.”).

Plaintiff further contends that “IDR proceedings are not true arbitrations, so the collateral attack doctrine should not apply at all in this context.” Docket No. 39 at 3. Plaintiff does not provide any authority for this argument. Rather, Plaintiff points to a series of characteristics that it believes distinguish IDR proceedings from arbitration, including that “arbitration is voluntary, pursuant to mutual agreement, and permits parties to define the scope of the proceedings.” *Id.* at 6. None of these differences, however, changes the fact that Congress expressly prohibited judicial review of IDR awards and did not provide a private right of action to enforce or challenge such awards. In addition, Plaintiff exaggerates the distinction between IDR proceedings and arbitration. The Fifth Circuit has explained:

Like judges and arbitrators, [Certified Independent Dispute Resolution Entities] are neutral arbiters of payment disputes with no stake in the underlying controversy.

⁶ Plaintiff’s complaint contains numerous discussions of the alleged inefficiency and perceived unfairness of the IDR process. *See, e.g.*, Docket No. 2 (Complaint) at ¶ 3 (explaining that “[t]hese IDR Processes have not worked as intended.”); *id.* at ¶ 67 (explaining that “it was estimated that there would be approximately 17,435 disputes submitted to the Federal IDR Process each year,” but that “[t]hose estimates turned out to be a drastic underestimate.”); *id.* at ¶ 69 (explaining that “providers [are] winning a disproportionate amount of these disputes” and the providers are receiving “unreasonably high rates”); *id.* at ¶ 72 (explaining that “[r]esearchers have commented that ‘absent corrective action from policymakers, patients will ultimately bear the cost through higher premiums and the administrative overhead of an increasingly exploited arbitration process.’ ” (quoting Lawson Mansell & Sage Mehta, Niskanen Center, *New data shows No Surprises Act arbitration is growing healthcare waste*, (June 18, 2025), Available at: <https://www.niskanencenter.org/new-data-shows-no-surprises-act-arbitration-is-growing-healthcare-waste/>)). However, these complaints are not proper issues for the Court to resolve, and they further demonstrate why Plaintiff’s complaints are more appropriately addressed to policymakers in Congress and the Texas legislature.

They receive competing offers for payment, consider information supporting the offers, and then choose one of the offers, which is binding on the providers and insurers. 42 U.S.C. § 300gg-112(b)(4), (b)(5). CIDREs, in sum, function more or less exactly like arbitrators.

Guardian Flight, LLC v. Med. Evaluators of Tex. ASO, LLC, 140 F.4th 613, 623 (5th Cir. 2025).

Thus, the Court is unpersuaded that the collateral attack doctrine applies with any less force to attacks on IDR awards based on the differences Plaintiff has identified.

Plaintiff finally argues that it seeks prospective relief and that it “cannot possibly ‘collaterally attack’ IDRs that have not yet been commenced.” Docket No. 21 at 14; *see also* Docket No. 39 at 5 (“BCBSTX also seeks relief that is entirely different than that available through the IDR Processes, including an injunction prohibiting future misconduct.”). While this may be true, Plaintiff’s request for an injunction is a remedy rather than an independent cause of action. *See Doe v. Univ. of N. Tex.*, No. 4:18-CV-17, 2018 WL 6495084, at *9 n.10 (E.D. Tex. Nov. 20, 2018), *report and recommendation adopted sub nom. Jon Unt-Rs Doe v. Univ. of N. Tex.*, No. 4:18-CV-17, 2018 WL 6446469 (E.D. Tex. Dec. 10, 2018) (collecting cases and explaining that “Federal courts recognize an injunction is a remedy, not a separate claim or cause of action; a pleading can request injunctive relief in connection with a substantive claim, but a separately plead claim or cause of action for injunctive relief is inappropriate.”). This is confirmed by Plaintiff’s complaint, which states that Plaintiff “seeks an injunction prohibiting Defendants from continuing to submit false attestations and initiate Federal and State IDR Processes for claims, items, or services that are not eligible for IDR, or from seeking to enforce non-binding awards entered on items and services not eligible for IDR.” Docket No. 2 (Complaint) at ¶ 341. Plaintiff’s request for an injunction therefore does not constitute an independent cause of action and is inextricably intertwined with its other claims.

Based on the foregoing, Plaintiff's Claims I–VII with respect to Defendants' submission of items and services for Federal IDR are **DISMISSED WITH PREJUDICE** for lack of subject-matter jurisdiction.

B. The Texas Insurance Code's Limit on the Judicial Review of IDR Awards and Collateral Attack

The Court's analysis concerning the NSA and the federal IDR process, *supra* Section I.A.2, also applies to Plaintiff's causes of action related to the Texas IDR process. However, the parties' specific arguments related to the Texas IDR awards are addressed below.

1. The Texas IDR Process

Prior to the adoption of the NSA, the Texas legislature passed Senate Bill 1264 in 2019 to establish an “Out-of-Network Claim Dispute Resolution” process. Docket No. 2 (Complaint) at ¶¶ 51, 53 (citing, for example, Tex. Ins. Code §§ 1467.050 and 1467.081). The statute directs the Texas Commissioner of Insurance to “adopt rules, forms, and procedures necessary for the implementation and administration of the arbitration program.” Tex. Ins. Code § 1467.082. The parties to a Texas IDR may agree on an arbitrator; otherwise the Commissioner will select one to preside over the dispute. *Id.* at § 1467.086(a).

The statute provides that “[t]he only issue that an arbitrator may determine under this subchapter is the reasonable amount for the health care or medical services or supplies provided to the enrollee by an out-of-network provider.” *Id.* at § 1467.083. The Texas Department of Insurance, rather than the arbitrator, is responsible for determining the eligibility of items and services for IDR. Docket No. 21 at 16 n.8 (“Instead, it is the TDI, not the TDI neutral, who determines eligibility.” (citing Tex. Ins. Code § 1467.081)). An arbitrator's determination of the reasonable amount for the health care or medical services or supplies is binding. Tex. Ins. Code § 1467.089(a). “Not later than the 45th day after the date of an arbitrator's decision . . . a party not

satisfied with the decision may file an action to determine the payment due to an out-of-network provider.” *Id.* at § 1467.089(b).

Unlike the NSA, Senate Bill 1264 does not limit judicial review of an arbitrator’s decision to the mechanisms provided in the Federal Arbitration Act. Instead, the statute limits the reviewing court’s determination to “whether the arbitrator’s decision is proper based on a substantial evidence standard of review.” *Id.* at § 1467.089(a).

2. Analysis

Defendants argue that, similar to federal IDR awards, Texas IDR awards are binding arbitrator decisions and judicial review is strictly limited. Docket No. 15 at 18. Specifically, Defendants note that a dissatisfied party has 45 days from the date of the arbitrator’s decision to file a suit for judicial review and that “ ‘determining the amount that an out-of-network provider should be paid by an insurer is a technical exercise to be performed by a subject-matter expert—not an issue to be decided by a jury of laymen.’ ” *Id.* (quoting *Tex. Med. Res., LLP v. Molina Healthcare of Tex., Inc.*, 659 S.W.3d 424, 436 (Tex. 2023)). In addition, Defendants contend that “[r]egardless of who decides eligibility, that decision necessarily precedes and leads to the Texas IDR arbitrator’s payment decision.” Docket No. 28 at 9. According to Defendants, allowing Plaintiff “to seek effective vacatur” of the Texas IDR awards based on eligibility or other grounds would “eviscerate” the statute’s limitations on judicial review. *Id.* at 9–10.

Plaintiff argues that “[n]o part of the arbitrator’s decision under Section 1467.088 relates to eligibility,” Docket No. 21 at 16. Further, Plaintiff contends that, under Defendants’ interpretation, “the statute’s text restraining the time bar to a[n arbitrator’s] ‘decision under Section 1467.088’ would be rendered superfluous.” *Id.* In any event, Plaintiff argues it is “not challenging whether the awarded amount, in any IDR, was ‘the closest to the reasonable amount for the services or supplies.’ ” Docket No. 39 at 7.

The Court agrees with Defendants. The Texas Insurance Code gives a dissatisfied party 45 days to file a suit challenging an arbitrator's determination. Tex. Ins. Code § 1467.089(b). Even if the dissatisfied party files such a case as allowed under Section 1467.089(b), the reviewing court's determination is limited to "whether the arbitrator's decision is proper based on a substantial evidence standard of review." *Id.* at § 1467.089(a). The decision referred to in Section 1467.089(b) is the arbitrator's determination of "the reasonable amount for the health care or medical services or supplies provided to the enrollee by an out-of-network provider." *Id.* at § 1467.083.

As with Plaintiff's claims related to the federal IDR awards, Plaintiff's claims related to Defendants' alleged conduct in the Texas IDR process constitute collateral attacks on the Texas IDR awards. While the Texas Insurance Code does not limit judicial review in the same manner as the NSA, it (1) limits the scope of what the reviewing court may consider (*i.e.*, the arbitrator's decision), and (2) prescribes the standard of review that the court must apply. *Id.* at § 1467.089(c). If the Court were to conclude that the items and services submitted for payment by Defendants were ineligible, then the arbitrators' decisions about the reasonable amounts owed would necessarily be called into question. As explained with regard to the federal IDR process, *supra* Section I.A.2, the Court is unpersuaded that the collateral attack doctrine does not apply simply because Plaintiff's claims indirectly challenge thousands of awards rather than one particular award.

Plaintiff's argument that Defendant's interpretation of the Texas Insurance Code would render the 45-day limit superfluous is unpersuasive. The Texas legislature explicitly provided a limited private right of action for a dissatisfied party to challenge the arbitrator's determination of the reasonable amount for the items and services at issue. It further gave the dissatisfied party 45 days to exercise that right. The logical inference from the Texas legislature's limitation on judicial

review of the Texas IDR awards is that it did not intend to provide a mechanism for a dissatisfied party to challenge the award on other grounds, including eligibility. Indeed, it is Plaintiff's interpretation that would render the Texas legislature's limits on judicial review superfluous because it would allow a dissatisfied party to challenge a Texas IDR award for any reason and without a time constraint so long as the dissatisfied party did not challenge the reasonableness of the award. Plaintiff offers no evidence that this was the Texas legislature's intent.

Based on the foregoing, Plaintiff's Claims I–VII with respect to Defendants' submission of items and services for Texas IDR are **DISMISSED WITH PREJUDICE** for lack of subject-matter jurisdiction.

C. Defendants' Remaining Arguments

Because the Court concludes that it lacks subject matter jurisdiction pursuant to the NSA, SB 1264, and the collateral attack doctrine, it does not reach the merits of Defendants' arguments regarding Article III standing, the *Noerr-Pennington* Doctrine, and Rules 9(b) and 12(b)(6).

II. Defendants' Motion to Stay Discovery Pending Resolution of Defendants' Rules 12(b)(1) and 12(b)(6) Motions to Dismiss (Docket No. 31)

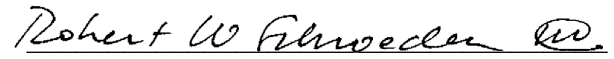
Defendants request that the Court stay discovery pending the resolution of their motion to dismiss. Docket No. 31 at 1. However, because the instant Order disposes of the motion to dismiss (Docket No. 15), Defendants' request is no longer applicable. Thus, the motion to stay (Docket No. 31) is **DENIED-AS-MOOT**.

CONCLUSION

For the foregoing reasons, Defendants HaloMD, LLC, Alla LaRoque, and Scott LaRoque's Joint Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) and Related Request for Judicial Notice of Public Documents (Docket No. 15) is **GRANTED**, and Defendants' Motion to Stay

Discovery Pending Resolution of Defendants' Rules 12(b)(1) and 12(b)(6) Motions to Dismiss (Docket No. 31) is **DENIED-AS-MOOT**.

So ORDERED and SIGNED this 22nd day of May, 2026.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

TAB 3

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

BLUE CROSS BLUE SHIELD OF TEXAS, A
DIVISION OF HEALTH CARE SERVICE
CORPORATION, A MUTUAL LEGAL
RESERVE COMPANY,

Plaintiff,

vs.

HALOMD, LLC, ALLA LAROQUE, and
SCOTT LAROQUE,

Defendants.

Case No. 5:25-cv-00132

NOTICE OF APPEAL

Plaintiff Blue Cross Blue Shield of Texas hereby notices its appeal to the United States Court of Appeals for the Fifth Circuit of this Court's Order entered on May 22, 2026, granting Defendants' Motion to Dismiss. D.E. 64.

Dated: May 22, 2026

By: /s/ Jamie R. Kurtz

PATTON, TIDWELL & CULBERTSON

Kelly B. Tidwell
kbt@texarkanalaw.com
Geoffrey P. Culbertson
gpc@texarkanalaw.com
2800 Texas Boulevard
PO Box 5398
Texarkana, TX 75505
Telephone: (903) 792-7080
Facsimile: (903) 792-8233

– and –

ROBINS KAPLAN LLP

Jamie R. Kurtz*
JKurtz@RobinsKaplan.com

Nathaniel J. Moore*
NMoore@RobinsKaplan.com
John K. Harting*
JHarting@RobinsKaplan.com
Kyle D. Nelson*
KNelson@RobinsKaplan.com
Jackie Fielding*
JFielding@RobinsKaplan.com
Joseph T. Janochoski*
JJanochoski@RobinsKaplan.com
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Telephone: (612) 349-8500
Facsimile: (612) 339-4181

*Admitted *pro hac vice*

*Attorneys for Plaintiff Blue Cross Blue
Shield of Texas*

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2026, a true and correct copy of the above was served
via email through the Eastern District of Texas's CM/ECF system.

/s/Jamie Kurtiz
Jamie Kurtz