



November 10, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Julie A. Su  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Avenue NW Washington, DC 20210

The Honorable Janet Yellen  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW Washington, DC 20220

Dear Secretaries Becerra and Yellen and Acting Secretary Su:

On behalf of our members and the patients they serve, we would like to thank the Departments of Health and Human Services, Labor, and Treasury (the Departments) for the proposed reforms to the *No Surprises Act's* federal dispute resolution process that were included in the Federal Independent Dispute Resolution Operations Proposed Rule.<sup>1</sup> We remain steadfast in our support of the legislation's goal of removing patients from the middle of out-of-network reimbursement disputes.

We appreciate that the Departments listened to and incorporated many elements of our input provided over the last couple of years on how to improve the federal dispute resolution process, so that the process is more efficient and effective—and the IDR process is more likely to be used as a last resort as the *No Surprises Act* intended.

If finalized, we believe that the policies included in the proposed rule would encourage negotiations prior to the start of the independent dispute resolution (IDR) process, reduce the number of initiated disputes later determined to be ineligible, help speed up payment determinations by certified IDR entities, and, with proper enforcement, hold the potential to reduce reliance on initiation of IDR overall. The proposed rule directly responds to feedback that we and other provider organizations submitted that health plans often are failing to meet their disclosure obligations, which denies providers sufficient information to identify whether claims are eligible

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<sup>1</sup> Federal Independent Dispute Resolution Operations Proposed Rule. 88 Fed. Reg. 75744 (November 3, 2023).

for the federal dispute resolution process or subject to a specified state law. The new disclosure requirements, particularly the proposal to mandate the use of claim adjustment reason codes (CARCs) and remittance advice remark codes (RARCs), address this issue directly.

While we are generally supportive of many of the Departments operational proposals in the proposed rule, we are still assessing all of the provisions, including other sections related to batching and the administrative IDR fee. We plan to submit comprehensive comments by the public comment deadline of January 2, 2024.

We look forward to working with you further to make this important law as effective as possible. If you have any questions, please do not hesitate to contact EDPMA's Executive Director, Cathey Wise, at [cathey.wise@edpma.org](mailto:cathey.wise@edpma.org) or Laura Wooster, ACEP's Senior Vice President of Advocacy and Practice Affairs at [lwooster@acep.org](mailto:lwooster@acep.org).

Sincerely,



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Chair  
Emergency Department Management Association



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President  
American College of Emergency Physicians