

December 6, 2021

Submitted electronically via: www.regulations.gov

The Honorable Martin J. Walsh, Secretary
Department of Labor
200 Constitution Ave. NW, N-5653
Washington, DC 20210

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

The Honorable Xavier Becerra, Secretary
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Requirements Related to Surprise Billing; Part II, Interim Final Rule (#CMS-9908-IFC)

Dear Secretaries Walsh, Yellen, and Becerra:

The Employers Health Care Alliance Cooperative ([The Alliance](#)) appreciates the opportunity to comment on the second part of the Interim Final Rules governing the No Surprises Act (NSA).

The Alliance is a non-profit cooperative of approximately 300 midwestern employers providing health benefits for approximately 100,000 employees and their dependents. Among the many services we provide our members is a robust provider network consisting of 32,000 doctors and health care providers across the Midwest that our self-funded members can customize to steer their enrollees to highest value care possible.

But, to steer enrollees to high value care you must be able to identify high-value health care providers, and so cost and quality measurement and reporting has been at the core of The Alliance mission since we first started 30-years ago. Here are some pertinent things we've learned through decades of directly contracting with providers and working to advance transparent information about health care cost and quality:

- 1) Independent physicians and specialists are growing ever rarer, with most physicians now working for large and growing health systems or in equity-owned physician groups. This steady drive toward consolidation is pushing medical prices higher;
- 2) There is no correlation between the cost of health care and the quality of health care being delivered, and while there may be talented physicians with specialized skills there is no single health system that is the best at everything;
- 3) Certain hospital systems and medical groups are engaging in anticompetitive behavior to capture additional market share, forcing other systems out of network and increasing the likelihood that surprise billing will occur;
- 4) Payers want to bring high quality health care providers that are delivering services at a fair price into their networks and reward them with more business. This is how we should align incentives in health care to reward high-value providers; not with higher prices.

It is for these reasons that we support the Qualified Payment Amount as the Independent Dispute Resolution (IDR) financial settlement standard as proposed in the IFR.

The IFR properly establishes the qualified payment amount (QPA), which is based on negotiated market rates, as the default for IDR entities when settling surprise medical bill claims. This minimizes the opportunity for profit-seeking health systems or equity owned physician groups who are not in network, but utilized out of necessity, to charge unreasonable prices for their services.

We understand there may be rare circumstances that warrant higher charges, and the IFR properly provides a pathway for that to occur when it can be justified. This is good policy that takes into consideration the need to keep health costs reasonable for those that are ultimately bearing the burden of high health costs: employers, their employees, other individuals and the government.

Thank you for considering these comments. If you have any questions, please do not hesitate to contact Melissa Duffy, Government Affairs, at mduffy@dcstrategies.org.

Sincerely,

Cheryl De Mars, CEO
The Alliance