

Congress of the United States
House of Representatives
Washington, DC 20515

June 17, 2021

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

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

The Honorable Martin J. Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Becerra, Secretary Yellen, and Secretary Walsh:

As you know, Congress passed the No Surprises Act as part of the Consolidated Appropriations Act, 2021 (P.L. 116-260) after a multi-year bipartisan and bicameral effort to protect patients from surprise medical bills and resolve payment disputes between insurance plans and health care providers. **As you begin to implement the No Surprises Act, we urge you to reflect congressional intent in your rulemaking by ensuring a balanced process to settle payment disputes between health plans and providers.**

In drafting this law, we laid out a process that keeps patients out of the middle of payment disputes between providers and health plans. It also incentivizes parties to act in good faith and resolve disputes amongst themselves. However, if the parties are unable to resolve their differences, the law provides a backstop in the form of a certified independent dispute resolution (IDR) entity who must consider a number of factors in deciding whether to select the provider or payor's offer.

The dispute resolution process established in the No Surprises Act prevents artificially low payment rates that would incentivize insurance companies to keep providers out of their networks. Providers and payors are able to bring relevant information with the exception of billed charges and public payor information for consideration, and the certified IDR entity shall consider:

- Median in-network rates
- Provider training and quality of outcomes
- Market share of parties
- Patient acuity or complexity of services
- Teaching status, case mix, and scope of services of the facility
- Demonstrations of previous good faith efforts to negotiate in-network rates
- Prior contract history between the two parties over the previous four years

The No Surprises Act instructs the certified IDR entity to consider each of these listed factors, as well as any allowable information brought by either party or requested by the certified IDR entity. **To match Congressional intent, your implementation of the law should ensure an IDR process that captures the unique circumstances of each billing dispute and does not cause any single piece of information to be the default one considered.**

Additionally, in passing the No Surprises Act, Congress gave patients important tools to navigate their health care. It is critical that our intent is recognized as you implement the transparency and consumer protection provisions of the law. One such tool, the advanced explanation of benefits, will give patients access to information about the expected cost of their treatment and the network status of the provider before they go in for a procedure. The requirements for insurance companies to offer patients up-to-date provider networks, price comparison tools, and clearly print in- and out-of-network deductibles and out-of-pocket maximums on insurance cards will make patients more informed in their health care decision-making.

As you begin to craft rules to implement the No Surprises Act, we stand ready to work with you to ensure that your rulemaking reflects congressional intent. We also encourage you to work with the stakeholders that this law will impact. In order to ensure a smooth rollout of these landmark patient protections, it is important that each step of the process provides sufficient time for public comments and evaluation through proposed notice and comment rulemaking. Working together, we are confident that successful implementation of this patient-centered law will resolve billing disputes, take patients out of the middle, and empower patients to make more informed health care decisions.

Thank you for your work on this important matter. We look forward to continuing to work with you to protect access to affordable, high-quality health care.

Sincerely,



Thomas R. Suozzi
Member of Congress



Brad R. Wenstrup, D.P.M.
Member of Congress

/s/
Brian Fitzpatrick
Member of Congress

/s/
Joseph D. Morelle
Member of Congress

/s/
Jerrold Nadler
Member of Congress

/s/
Sanford D. Bishop, Jr.
Member of Congress

/s/
Bill Posey
Member of Congress

/s/
Liz Cheney
Member of Congress

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Steve Cohen
Member of Congress

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Grace Meng
Member of Congress

/s/
Vern Buchanan
Member of Congress

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Gregory F. Murphy, M.D.
Member of Congress

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John B. Larson
Member of Congress

/s/
Jeff Van Drew, DMD
Member of Congress

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Mike Kelly
Member of Congress

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Mariannette Miller-Meeks, M.D.
Member of Congress

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Jim Cooper
Member of Congress

/s/
Susan Wild
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James R. Langevin
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Eddie Bernice Johnson
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Alex X. Mooney
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A. Drew Ferguson, IV
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Haley Stevens
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Scott DesJarlais, M.D.
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Tim Burchett
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Lucy McBath
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John Garamendi
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Rodney Davis
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Andy Harris, M.D.
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Pete Sessions
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Jason Smith
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Neal P. Dunn, M.D.
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Tom Cole
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David G. Valadao
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Juan Vargas
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Jimmy Panetta
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Ron Estes
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Randy Feenstra
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Darrell Issa
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Julia Letlow
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Tom Emmer
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Ron Kind
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Jahana Hayes
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Vicky Hartzler
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