



**BlueCross BlueShield
Association**

An Association of Independent
Blue Cross and Blue Shield Plans

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January 10, 2022

The Honorable Martin Walsh
Secretary of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Submitted via email at ebbsa.opr@dol.gov

RE: Information Collection Reporting Requirements Related to Surprise Billing

Dear Secretary Walsh,

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to provide comments on the Paperwork Reduction Act (PRA) information collection documents associated with the federal independent dispute resolution (IDR) process requirements for the surprise billing protections under the No Surprises Act, as posted by the Department of Labor. Our comments in this letter are limited to the aforementioned PRA, as we previously submitted more detailed comments on the related “Requirements Related to Surprise Billing; Part II” Interim Final Rule (86 FR 55980).

BCBSA is a national federation of 35 independent, community-based and locally operated Blue Cross and Blue Shield companies (Plans) that collectively provide health care coverage for 111 million – one in three – Americans. Blue Cross and Blue Shield Plans offer coverage in every market and every ZIP code in America. Plans also partner with the government in Medicare, Medicaid, the Children’s Health Insurance Program, and the Federal Employees Health Benefits Program.

BCBSA believes the thoughtful design and implementation of the No Surprises Act is critical to achieving Congress’ dual intent of protecting consumers from surprise medical bills and preventing health care cost increases. We support these aims and appreciate the steps that the Departments of Labor, Health and Human Services, and Treasury (Departments) have taken to ensure that consumers were fully protected on Jan. 1, 2022.

Upon review of the PRA documents, we have identified a few recommendations for your consideration:

Expanded Elements in Data Notices. The draft open negotiation form does not require key information, including member and claims identification data, which health plans and providers will need to readily identify the specific claims to be discussed. We urge DOL, in consultation with the other agencies, to expand the list of data elements to include the following: claim number, provider first and last name (professional providers), provider group name (professional providers), facility name (facility providers), provider NPI, plan name, and member first and last name.

Timeframe for Publishing Final Notices. The IFR did not indicate a timeframe in which the Departments would publish final notices and forms. As the surprise billing protections and processes went into effect on Jan. 1, we urge the Departments to publish final versions that include the necessary modifications highlighted above as soon as possible. This will help plans and providers incorporate the notice into their administrative processes to promote the effectiveness of the processes laid out in the two surprise billing Interim Final Rules.

Electronic Communication Capabilities. We suggest that communications relating to the IDR process be fully delivered electronically, including the IDR notices included in the PRA information collection documents as well as other key communications. Our recommendation would be to build these capabilities to encompass the following: the open negotiation notice, submission of offers, notice of IDR initiation, payment of fees, and status updates throughout the process. Ideally, as CMS builds out the functionality of the federal IDR portal, communications can be housed and distributed through the portal. This will decrease administrative burden, reduce delays, minimize the opportunity for disclosure of sensitive personal information, and make the IDR process much more efficient. While we acknowledge these recommendations involve additional work for the Departments, we hope the level of effort will be minimal, given the work already underway to stand up this portal, and that this additional effort will add significant efficiency to the process. We urge the Departments to prioritize launching the IDR portal as quickly as possible. While the Departments continue to build the functionality of the portal, we recommend that a manual process be initially put into place to minimize confusion and expedite notices and submissions.

Modifiers on Claims. While not specific to the IDR process documents, we would appreciate the Departments considering creation of a modifier to be included on claims in instances when the patient has signed the notice and consent forms to allow balance billing. The modifier would help clarify patient, provider and insurer liability on the front end so that patients receive accurate claims and explanation of benefit information and providers are paid promptly and accurately.

We appreciate the opportunity to comment on the No Surprises Act PRA documents. We appreciate your consideration of our comments and look forward to continuing to work with the Departments on implementation issues related to surprise billing. If you have any questions, please contact Anshu Choudhri at 202.626.8606 or at anshuman.choudhri@bcbsa.com.

Sincerely,



Kris Haltmeyer
Vice President, Policy Analysis
Blue Cross and Blue Shield Association