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On behalf of the Washington State Medical Association, representing more than 12,500 physicians and physician assistants, as well as our undersigned physician partner organizations, thank you for the opportunity to provide comment on the request for information related to balance billing dispute resolution. Our organizations urge the Office of the Insurance Commissioner to maintain the arbitration system under the Balance Billing Protection Act until at least July 1, 2024.

As noted in our previous comment letter, the implementation of the Independent Dispute Resolution system under the No Surprises Act has faced numerous challenges, many of which are ongoing:

- Successful legal challenges have demonstrated IDR's inconsistency with the underlying law, requiring revision of the program. Separate legal actions against the IDR system are still pending.
- An ongoing backlog of claims in the IDR process has delayed determinations and payments. The most recent update from federal agencies overseeing the IDR system (referenced in the OIC RFI) reported that there are around 150,000 unresolved IDR cases.
- Among other factors, the backlog is driven by higher than anticipated utilization of IDR and an undersupply of IDR entities due to the decision of some major arbitration entities not to participate in IDR.
- Recent reporting reveals that in some instances where IDR determinations are made, insurance carriers are failing to comply – paying providers at incorrect amounts or failing to pay altogether.<sup>1</sup>

The BBPA arbitration system has been proven to be effective and efficient in processing disputes as well as helping facilitate successful negotiations with carriers to return to network status. By contrast, IDR remains a work in progress with regulators recently noting they are working on clearing the backlog and are committed to “continue to strengthen and improve the federal IDR process.”<sup>2</sup> Until the IDR system is proven to be similarly effective, the BBPA arbitration system should be maintained.

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<sup>1</sup> [Insurers ignore orders to pay surprise medical billing disputes, doctors say \(axios.com\)](https://www.axios.com/insurers-ignore-orders-to-pay-surprise-medical-billing-disputes-doctors-say-2023-08-03)

<sup>2</sup> [Federal Independent Dispute Resolution Process –Status Update \(cms.gov\)](https://www.cms.gov/medicare/coverage/coverage-issues/federal-independent-dispute-resolution-process-status-update)

For these reasons we again urge the OIC to maintain the BBPA arbitration system through at least July 1, 2024. Thank you for your consideration and please feel free to let us know if there is additional information we can provide.

Sincerely,

Sean Graham  
Director of Government Affairs  
Washington State Medical Association

Washington Chapter – American College of Emergency Physicians  
Washington State Radiological Society  
Washington State Society of Anesthesiologists  
Washington State Society of Pathologists  
Emergency Department Practice Management Association  
Anesthesia Associates, PS  
Associated Emergency Physicians  
Bellingham Anesthesia Associates, PS  
Evergreen Emergency Services  
Evergreen Eye Anesthesia, PLLC  
Longview Anesthesiology Group, PC  
Monroe Anesthesia, PLLC  
Matrix Anesthesia, PS  
Olympia Emergency Services  
Olympic Anesthesia Services  
Paceline Anesthesia, PLLC  
Pacific Anesthesia, PC  
Providence Health and Services – Washington (Providence Anesthesia Services)  
Puget Sound Physicians  
Rainier Anesthesia Associated, PC  
RAYUS Radiology  
Seattle Emergency Physician Services  
Surgical Center Anesthesiologists  
South Sound Anesthesia Associates, PLLC  
TRA Medical Imaging  
US Anesthesia Partners  
Valley Anesthesia Associates, PLLC