



December 19, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue S.W.
Washington, D.C., 20201

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave N.W.
Washington, D.C., 20210

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: Federal Independent Dispute Resolution Operations

Dear Secretaries Becerra, Yellen and Acting Secretary Su:

The American Association of Nurse Anesthesiology (AANA) welcomes the opportunity to submit comments to this proposed rule. We are firmly committed to working with the agency and other healthcare stakeholders to help achieve our common goals of increasing access to healthcare, advancing health equity, reducing regulatory burdens and making healthcare more affordable for all Americans.

The AANA is the professional association for Certified Registered Nurse Anesthetists (CRNAs) and student registered nurse anesthetists (SRNAs). AANA membership includes more than 61,000 CRNAs and SRNAs, representing about 86 percent of the nurse anesthetists in the United States. CRNAs are advanced practice registered nurses (APRNs) who personally administer more than 50 million anesthetics to patients each year in the United States. Nurse anesthesia predominates in Veterans Hospitals and in the U.S. Armed Services. CRNAs also play an essential role in assuring that rural America has access to critical anesthesia services, often serving as the sole anesthesia provider in rural hospitals, affording these facilities the capability to provide many necessary procedures. For further information, see: <https://www.aana.com/about-us>.

The AANA appreciates the agency's concern regarding patients being surprised by out of network (OON) bills and we agree that the economic burden of receiving care out-of-network can be substantial for patients. Nurses work on the frontlines of health care delivery earning their continuous recognition as the most-trusted profession in America. CRNAs are advanced practice registered nurses with graduate-level education who enjoy a high degree of autonomy and professional respect. CRNAs provide anesthetics to patients in every practice setting, and for every

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type of surgery or procedure.

The AANA supports a scenario where CRNAs can negotiate for a reasonable and fair rate to provide their safe and high-quality anesthesia and pain management services. We are concerned that the federal independent dispute resolution (IDR) process to determine the out-of-network rate for certain emergency services, nonemergency items and services furnished by nonparticipating providers at participating health care facilities currently strengthens the ability of insurers to potentially manipulate rates for reimbursement in their own favor, which will ultimately reduce competition and choice at the expense of the patient.

The rules do not appear to define what constitutes health issuers and health plan's good faith efforts to negotiate with providers in the open negotiation period to determine the out-of-network rate for certain services in general and also before the federal IDR process takes place. Without such protections in place, already powerful insurers gain even more leverage in the negotiation process with providers, including CRNAs. Having a shared understanding of this value and its impact on payment during open negotiations would support the parties' ability to negotiate with one another in good faith. This ultimately deters competition and choice giving advantages to some providers over others, which does not align with the goals or intent of the No Surprises Act. We request that the agency add a provision that further defines "good faith efforts" for insurers and health plans in order to ensure that they negotiate in good faith with providers regarding reimbursement for services and being included in their networks and also add punitive measures for insurers that fail to demonstrate good faith during these negotiations.

AANA appreciates the opportunity to comment on this proposed rule. Should you have any questions regarding our comments, please feel free to contact AANA Senior Associate Director, Federal Regulatory and Payment Policy, Randi Gold at rgold@aana.com.

Sincerely,

A handwritten signature in black ink that reads "Dru Riddle". The signature is written in a cursive, flowing style.

Dru Riddle, PhD, DNP, CRNA, FAAN
AANA President

cc: William Bruce, MBA, CAE, AANA Chief Executive Officer
Ingrida Lusic, BA, AANA Chief Advocacy Officer
Randi Gold, MPP, AANA Senior Associate Director Federal Regulatory and Payment Policy

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