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ONE HUNDRED NINETEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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WASHINGTON, DC 20515-6115

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September 3, 2026

Pat Feliciano
Chief Executive Officer
Commence
585 London Bridge Rd
Virginia Beach, VA 23454

Dear Mr. Feliciano:

I am writing to request information about your company's work as a certified independent dispute resolution entity (IDRE) under the No Surprises Act. The No Surprises Act was the culmination of a multi-year bipartisan, bicameral effort to protect patients from the unfair practice of surprise medical billing and to lower health care costs for American families. For too long, patients were caught in the middle of billing disputes between providers and health plans. While the law has protected millions of families from surprise medical bills, I am concerned that the independent dispute resolution (IDR) process is not functioning as Congress intended and is resulting in increased out-of-pocket costs and higher premiums for consumers. I am also troubled by recent allegations that some claims submitted to IDREs do not meet the statutory criteria, and that mandatory payment determinations are being made for ineligible disputes. As one of the authors of this law, I request further information about how your company is conducting the IDR process, and how you are complying with the No Surprises Act and its implementing regulations.

Before passage of the No Surprises Act, families were burdened with medical debt from unavoidable out-of-network emergency procedures or surprise charges from an out-of-network provider they did not choose during a scheduled service at an in-network facility. The No Surprises Act protects patients from these billing disputes and exorbitant surprise bills for out-of-network health care. The law limits what patients pay in surprise billing situations to their in-network cost-sharing and establishes a federal IDR process to resolve payment disputes between health plans and providers. Since the law has gone into effect, millions of Americans have been subject to the protections of the law and from unfair, undeserved balance bills. In 2024 alone,

nearly 20 million surprise medical bills were prevented, saving patients and their families thousands of dollars in out-of-pocket costs.[1]

Unfortunately, the federal IDR process is not functioning as Congress intended and is resulting in increased out-of-pocket costs and higher premiums for consumers.[2] At the time of passage, the Congressional Budget Office (CBO) estimated it would reduce health care costs and the federal deficit by approximately $17 billion over 10 years.[3] CBO also projected that the No Surprises Act would reduce private health plan premiums by 0.5 percent to 1 percent on average.[4] This estimate was based on CBO's conclusion that the Qualifying Payment Amount (QPA) would be central to the IDR determination, above all other factors. The No Surprises Act requires the consideration of the QPA in the IDR entity's determination and explicitly excludes consideration of other rates, such as usual and customary charges and public payor rates, reflecting Congress' determination that the QPA is the most reasonable rate among those rates. The statute clearly specifies in detail how health plans must calculate the QPA, underscoring Congress' intent for the QPA to serve as a predominant data point for IDREs to consider.

Since passage of the law, private equity-backed corporate entities and provider organizations have filed lawsuits in an attempt to judicially rewrite the No Surprises Act and have been successful in their endeavor to undermine the law.[5] While the No Surprises Act has protected patients, I am concerned that private-equity backed organizations and other provider organizations are also gaming the system to win significantly higher rates. They are using the federal IDR process as a high-volume revenue strategy. The IDR process was intended to serve as a backstop when providers and payers were unable to reach an agreement during the required open negotiation period. While it was initially estimated that 17,000 disputes would be filed annually, there were 2.5 million disputes filed in 2025 and 1.4 million filed just in the first five months of 2026.[6] A small number of provider organizations mostly backed by private equity account for the overwhelming majority of disputes filed through the IDR system. Of the 2.5

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[1] AHIP, *New AHIP/BCBSA Survey Finds Providers are Flooring IDR System with Ineligible Disputes* (October 2025).

[2] *A $440,000 Breast Reduction: How Doctors Cashed In on a Consumer Protection Law*, The New York Times (April 22, 2026).

[3] Congressional Budget Office, *CBO's Approach to Estimating the Budgetary Effects of the No Surprises Act of 2021* (March 7, 2024).

[4] *Id*.

[5] O'Neill Institute, *No Surprises Act Archives - Health Care Litigation Tracker (*https://litigationtracker.law.georgetown.edu/issues/no-surprises-act/) (accessed August 6, 2026); Health Affairs, *The No Surprises Act: A Litigation Status Check* (August 26, 2025) (https://www.healthaffairs.org/content/forefront/no-surprises-act-litigation-status-check).

[6] Centers for Medicare and Medicaid Services, *Supplemental Background on Federal Independent Dispute Resolution Public Use Files (July 1, 2025 – December 31, 2025)* (2026); Office of Personnel Management, *Requirements Related to Surprise Billing; Part II*, 86 Fed. Reg. 55980 (Oct. 7, 2021) (interim final rule); *Medical Billing Arbitration Paid Out $15 Billion to Providers in Surprise Bill Disputes*, The Wall Street Journal (July 22, 2026).

million disputes submitted in 2025, approximately 67 percent were submitted by just ten initiating parties.[7] The increase in volume of cases is also resulting in higher administrative costs, which can raise premiums for consumers and employees. The 15 IDREs were paid $1.3 billion in administrative fees in 2025 alone, compared to the $885 million these entities received from 2022 to 2024.

I am concerned that a significant number of disputes submitted to IDREs ultimately do not meet the eligibility requirements established under the No Surprises Act, and that a small number of companies may be systematically exploiting the arbitration system. Based on the public data, 42 percent of claims were disputed as ineligible by non-initiating parties, and approximately 20 percent of the submissions in 2025 were ultimately found ineligible.[8] This translates into hundreds of thousands of disputes that are diverting resources away from resolving eligible payment disputes and contributing to delays in the IDR process.[9] I am also troubled by allegations that mandatory payment determinations are being made for ineligible disputes.[10]

Collectively, IDREs awarded nearly $15 billion in payments to providers in 2025, and providers prevailed in over 85 percent of payment determinations.[11] IDREs awarded payment amounts that were over six times the amount that would have been paid to providers based on local in-network rates.[12] One analysis found that IDREs selected payment amounts that were 500 percent of Medicare rates for emergency services, and approximately 800 percent of Medicare rates for imaging services.[13] In one instance, a plastic surgeon that typically charges between $15,000 and $25,000 for breast reduction surgery won an arbitration award of $440,000.[14] In other instances, out-of-network surgical assistants have been awarded payment determinations that are tens or even hundreds of times more for operations than the surgeons they assist.[15]

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[7] Centers for Medicare and Medicaid Services, *Supplemental Background on Federal Independent Dispute Resolution Public Use Files (July 1, 2025 – December 31, 2025)* (2026).

[8] *Id*.

[9] *Id*.

[10] O'Neill Institute, *Arbitration Awards/Conduct* (https://litigationtracker.law.georgetown.edu/issues/arbitration-awards-conduct/) (accessed August 6, 2026); Health Affairs, *The No Surprises Act IDR Process: An Early Look At 2025 Data* (March 20, 2026) (https://www.healthaffairs.org/content/forefront/no-surprises-act-idr-process-early-look-2025-data?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosvitals&stream=top).

[11] *See* note 7.

[12] *Medical Billing Arbitration Paid Out $15 Billion to Providers in Surprise Bill Disputes*, The Wall Street Journal (July 22, 2026).

[13] Brookings, *No Surprises Act arbitration databook* (April 20, 2026) (https://www.brookings.edu/articles/no-surprises-act-arbitration-databook/).

[14] *See* note 2.

[15] *$22,000 Per Hour: Assistants Use a Legislative Loophole to Outearn Surgeons*, The New York Times (June 29, 2026); *see* note 2.

I am concerned that some corporate entities are using aggressive tactics to undermine the No Surprises Act, resulting in winning offers that far exceed commercial payment rates and contributing to higher insurance premiums for consumers – the very people this law meant to protect. Moreover, I am concerned about your lack of transparency with Congress, as my staff has repeatedly requested information from your company about your company's processes and procedures pertaining to NSA arbitration, and has not received a substantive response. Due to the critical role that your company has in the federal IDR process, I seek documents and responses to the following questions by September 24, 2026:

1. For 2023 through June 30, 2026, please provide the following broken down annually:
    a. The total number of disputes your company received;
    b. The percentage of submitted disputes that were determined to be ineligible;
    c. The percentage of submitted disputes for which eligibility was challenged by the non-initiating party;
    d. The percentage of eligible disputes for which the provider vs payer offer was selected;
    e. The percentage of eligible disputes for which a default judgment occurred; and
    f. The percentage of default judgments for which the non-initiating party did not provide a response.
2. Please describe the training provided to individuals making eligibility and payment determinations. Please provide copies of any written training materials developed by your company, including copies of any written materials that are provided to your staff as part of their training to evaluate disputes submitted through the IDR process.
3. Please describe the training, professional background, experience, and credentials required for individuals employed by your organization to work on the IDR process.
4. Please describe the systems and processes in place to determine whether submitted disputes are eligible.
    a. Is there any subsequent review of an initial decision?
    b. What policy, protocol, or process is in place to review an eligibility determination that has been challenged by a responding party?
    c. Please describe how the individuals making eligibility determination are compensated.

5. Please describe the systems and processes in place to make payment determinations.
    a. What factors are considered when selecting a final payment amount? Please describe what weight is given to each factor.
    b. Please describe the processes in place to document the rationale for selecting the winning offer.
    c. What information regarding the rationale for the determination is reported back to disputing parties? Please provide the type of information that is reported back.
    d. Please describe how the individuals making payment determinations are compensated.
    e. Please provide any written guidance, manuals, or other similar reference materials that arbitrators are supposed to rely upon when making decisions.
6. Please identify the ten organizations that initiated the greatest number of disputes resolved by your company from 2023 through 2026, broken down annually.
    a. Please provide the dispute volume submitted in each year by each of the top ten initiating parties.
    b. Please provide the win rate by year for each of the top ten initiating parties.
7. Does your company use any automated, algorithmic, or artificial intelligence tools during any portion of the dispute resolution process — including eligibility screening, case assignment, offer evaluation, or determination drafting? If so, describe the tool, its function, how it was developed or trained, and what human oversight applies.
8. How many payment determinations issued by your company have been challenged, appealed, or vacated? What process exists for a party to seek review of a determination it believes was not made accurately?
9. For disputes involving the same procedure code, same geographic region, and similar facts, how does your company ensure consistency of outcomes across different arbitrators?
10. Does your company conduct any internal audit or quality review of completed determinations? If so, describe the frequency, methodology, and findings.
11. What criteria does your company use to determine whether disputes qualify for batched resolution? How do you handle situations where an initiating party submits disputes that appear to be artificially unbundled?

12. Please describe the process your company uses to determine whether a submitted dispute is ineligible for the IDR process because the dispute is subject to the No Surprises Act's notice and consent requirements. Please explain how you identify disputes involving services for which notice and consent is required, and how you verify whether a valid notice and consent was obtained.

13. Does your company or any parent company, subsidiary, or affiliate, provide any services to or receive any revenue from any party that initiates or responds to disputes processed by your company? This includes but is not limited to consulting, billing, revenue cycle management, legal, or administrative services.

14. Please disclose the ownership structure of your company, including any private equity or institutional investors with ownership stakes, parent company, subsidiary, or affiliate.

I look forward to your timely and comprehensive response. If you have any questions about this request, please contact the Committee Democratic staff at 202-225-2927.

Sincerely,

Frank Pallone, Jr.
Ranking Member