



ISMA
INDIANA
STATE
MEDICAL
ASSOCIATION

IMPROVING INDIANA'S SURPRISE BILLING LAW

Through Independent Dispute Resolution



In the surprise billing context, independent dispute resolution (IDR), or “baseball-style” arbitration, is a statutory mechanism by which out-of-network physicians can challenge the payments they receive from insurers for their services to ensure they receive a fair and reasonable amount. Such a system is constructed to be quick, efficient – and unlike typical arbitration proceedings – does not require lawyers.

What does an effective IDR process look like?

The American Medical Association and organized medicine at the national and state levels are advocating for the following to ensure a robust, effective IDR process.

- Claims of any amount are eligible for submission to maximize accessibility, and batching of claims is allowed to maximize administrative efficiency.
- Both the physician and insurer submit information regarding the amount that should be paid for a service.
- An independent arbiter determines the most reasonable proposal within 30 days.
- The arbiter may consider a number of factors to determine which proposed payment is most reasonable:
 - o Rates for comparable services in the same geographic region that are considered reasonable based on commercial insurance rates from an independent and transparent database of all commercial payer claims data.
 - o Any previous contracting history.
 - o Demonstration of good-faith efforts (or lack thereof) made by either party (i.e., the out-of-network provider or the health plan) to enter into network contracts.
 - o Market share held by the out-of-network health care provider or the health plan.
 - o Level of training, education, experience, outcomes and quality metrics of the physician providing the service.
 - o Complexity of the services rendered.
 - o Individual patient characteristics.
 - o Any additional relevant factors contributed by either party.
 - o NOTE: Charges for services should NOT be considered by an arbiter. Proposals that allow consideration of charges have led to studies by the Congressional Budget Office and other stakeholders that indicate IDR leads to higher health care costs. This is part of the reason why IDR has not gained traction in the Indiana General Assembly.
- The party whose proposal was not selected is liable for the cost of the arbitration.
- The arbiter’s decision is final and binding on all parties.

Administratively, the IDR process would be overseen by the Indiana Department of Insurance and implemented through rulemaking.

CONTACT

Grant Achenbach, JD
Director of Government Relations
gachenbach@ismanet.org

Luke McNamee
Deputy Director of Policy
lmcnamee@ismanet.org