

September 19, 2023

Chairman Jason T. Smith (R-MO)
Committee on Ways and Means
1011 Longworth House Office Building
Washington, DC 20515

Ranking Member Richard E. Neal (D-MA)
Committee on Ways and Means
372 Cannon House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal:

On behalf of millions of members, supporters, and activists across America, the undersigned organizations collectively write to share our concerns about the implementation of the No Surprises Act (NSA). The NSA went into effect on January 1, 2022. The law established a national framework for resolving out-of-network billing disputes between insurers and providers that ensures patients are not forced to pay out-of-pocket costs beyond their in-network responsibility. In short, the NSA was passed to protect patients from surprise medical bills.

Unfortunately, the Biden Administration has to date ignored the intent of the NSA and significantly mismanaged the implementation of the law, and patients are paying the price. Specifically, the independent dispute resolution (IDR) process established under the NSA is being manipulated by insurers at the expense of the patients it seeks to protect.

Stories of violations of the NSA from payers have been documented across the industry. The pervasiveness and scale of these violations not only [threaten patient access to care](#), but present [direct harm](#) to patients' financial and physical health. Complaints of NSA violations have included:

- Payers informing providers that arbitration awards from the IDR process are "unenforceable."
- Misreporting of the patient cost-share on EOBs and claim documents, despite NSA protections. In other words, payers are informing patients and their doctors that their cost responsibility is greater than what the provider is allowed to bill.
- Reports that after a bill is sent to the Independent Dispute Resolution (IDR) process, some payers are converting the IDR award amount to become the patient's responsibility. The result is a potential surprise out-of-pocket expense to patients in clear violation of NSA prohibitions.

Since the enactment of the NSA, these violations have been increasing at an alarming rate.

In a recent testimony before the Senate Finance Committee, Secretary Xavier Becerra made clear that the Department of Health and Human Services (HHS) is failing to address systemic problems in NSA compliance. The agency is currently overwhelmed as more than "[10 times the number of claims](#)" that were expected have been submitted for arbitration. Sec. Becerra considers many of these claims to be "[frivolous](#)," and yet has still requested Congress provide additional funding to support the agency's ability to carry out the arbitration process.

However, adding more regulators to the HHS is not the solution to this problem. According to HHS's own data, providers have [prevailed in more than 70% of NSA disputes](#). This raises questions as to whether HHS is effectively monitoring implementation of and compliance with

the NSA. The reality is the agency's failure to properly implement the law is encouraging abuses and undermining the goal of protecting patients from surprise medical bills.

We strongly urge Congress to hold the HHS accountable for its actions and ensure the agency follows the letter of the law as it pertains to the NSA.

Sincerely,

60 Plus Association, Saulius "Saul" Anuzis, President

American Commitment, Phil Kerpen, President

Center for American Principles, Anthony (Tony) Zagotta, President

Center for Individual Freedom, Tim H. Lee, Senior Vice President of Legal and Public Affairs

Center for Innovation & Free Enterprise, Dee Stewart, President

Center for a Free Economy, Ryan Ellis, President

Consumer Action for a Strong Economy, Gerard Scimeca, Chairman

Institute for Liberty, Andrew Langer, President

FreedomWorks, Adam Brandon, President

Taxpayers Protection Alliance, David Williams, President

Trade Alliance to Promote Prosperity, Kent Kaiser, Ph.D., Executive Director

Less Government, Seton Motley, President

Cc: House Ways and Means Committee Members