

Mika Sinanan, MD, PhD
President

July 31, 2024

Katina Rue, DO
President-Elect

Nathan Schlicher, MD, JD, MBA
Past President

Jane Beyer, Senior Health Policy Advisor
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504

Nariman Heshmati, MD
Vice President

John Bramhall, MD, PhD
Secretary-Treasurer

Ms. Beyer,

Jennifer Hanscom
Chief Executive Officer

On behalf of the Washington State Medical Association, thank you for the opportunity to provide comment on R 2024-01, the prepublication draft rule making updates to the Balance Billing Protection Act.

Acknowledging that the bulk of the rule is focused on incorporating ground ambulance balance billing law from 2024 Senate Bill 5986, our comments will focus on the provision of the proposed rule related to arbitration proceedings under WAC 284-43B-037.

As we have noted in previous letters, the arbitration system under the Balance Billing Protection Act has been proven to be effective and efficient in processing disputes, as well as helping facilitate successful negotiations with carriers to return to in-network status. We are concerned that the proposed arbitration rate increases in the draft rule will have adverse and potentially unintended consequences.

The proposed rate increases of up to 54 percent for single claim arbitration and up to 88 percent for bundled claims are significant. Compared to the dispute resolution rates under the No Surprises Act, the proposed rates are up to 19 percent higher for single claim and up to 28 percent for batched claims.

Given that arbitration under the BBPA seems to be working as designed, and there are a substantial number of approved arbitrators and arbitration entities listed on the OIC website, it's unclear why the rate increases are necessary. We also have concerns about potentially pushing entities participating in dispute resolution to the federal IDR system at a time when there are outstanding functional and legal concerns about its operations. We outlined those concerns earlier this year in response to the OIC's request for information regarding maintaining BBPA arbitration and were grateful for the OIC delaying transition to NSA IDR until at least July 1, 2025.

We ask that the proposed arbitration rate increases in the prepublication draft rule be reconsidered and ideally removed from the draft rule, or at minimum revised to remain lower than NSA IDR rates in recognition of the well-functioning state arbitration system, and in the interest of not unduly increasing the cost of care.

Thank you for your consideration and please feel free to let us know if there is additional information we can provide.

Seattle Office
2001 Sixth Avenue, Suite 2700
Seattle, WA 98121
o / 206.441.9762 fax / 206.441.5863
email / wsma@wsma.org

Olympia Office
1800 Cooper Point Road SW
Building 7, Suite A
Olympia, WA 98502
o / 360.352.4848 fax / 360.352.4303

Sincerely,

A handwritten signature in blue ink, appearing to read "Sean Graham".

Sean Graham
Director of Government Affairs
Washington State Medical Association