



February 15, 2023

Jane Beyer, Senior Health Policy Advisor

Office of the Insurance Commissioner

P.O. Box 40255

Olympia, WA 98504

Ms. Beyer,

On behalf of more than 100 hospital and health system members, the Washington State Hospital Association (WSHA), appreciates the opportunity to provide comment on the request for information related to continuation of the state's balance billing dispute resolution process. We ask the Office of the Insurance Commissioner to extend the current arbitration system under the Balance Billing Protection Act until at least July 1, 2024.

In House Bill 1688, WSHA supported the continuation of the BBPA arbitration mechanisms and the option for extension due to uncertainty regarding the No Surprises Act IDR process. We believe it is critical to have a well-functioning dispute resolution process in place in conjunction with balance billing prohibitions. While hospitals have generally not directly used the BBPA process much so far, we believe the existence of a robust process has encouraged negotiated agreements between hospitals and carriers for out-of-network services, to the benefit of consumers.

In contrast, there continue to be significant issues with the NSA IDR process, including continuing litigation regarding the process and criteria used by arbitrators. As a result of the recent Texas decision, CMS is instructing the Certified IDR entities to stop making determinations and to rescind determinations made after Feb. 6. It is unknown when this will be resolved and when the IDR process will continue. Also, the federal IDR process continues to experience capacity issues resulting in significant backlog and delays of IDR determinations. We encourage the state to maintain its arbitration system under the BBPA at least until such time that these issues are resolved and the NSA IDR process is functional and reliable. For these reasons we again urge the OIC to extend and maintain the BBPA arbitration system through at least July 1, 2024.

Thank you again for the opportunity to comment. If you have questions, please contact Andrew Busz, WSHA Policy Director, Finance at (206) 216-2533 or [andrewb@wsha.org](mailto:andrewb@wsha.org).

A handwritten signature in cursive script that reads 'Chelene Whiteaker'.

Chelene Whiteaker  
Senior Vice President, Government Affairs  
Washington State Hospital Association

A handwritten signature in cursive script that reads 'Andrew Busz'.

Andrew Busz  
Policy Director, Finance  
Washington State Hospital Association