ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
MEMORANDUM

SUBJECT: Increased Arbitration Fees Under No Surprises Act

On Dec. 23, the U.S. Departments of Health and Human Services, Labor, and Treasury (the Departments) amended the calendar year (CY) 2023 fee guidance for the federal independent dispute resolution (IDR) process under the No Surprises Act. The Departments increased the IDR administrative fee from $50 to $350 per party for disputes initiated beginning Jan. 1, 2023. The Departments state that this 600% increase reflects the Departments’ enhanced role in conducting pre-eligibility reviews of disputes submitted in 2023. The Departments also point out that they received ten times more disputes in 2022 than originally anticipated, creating a backlog that has yet to be resolved.

The Departments reiterated the allowable certified IDR entity fee ranges for single or batched determinations, which were first outlined in guidance issued on Oct. 31, 2022. For disputes initiated on or after Jan. 1, 2023, certified IDR entities may charge a fixed fee for single determinations within the range of $200 to $700. For batched determinations, or disputes involving multiple qualified IDR items or services, certified IDR entities may charge a fixed fee between $268 and $938. Certified IDR entities may charge more for batched disputes that involve a large number of claims. The allowed charges are as follows:

- 2-20 items/services: 100% of batched fee;
- 21-50 items/services: 110% of batched fee;
- 51-80 items/services: 120% of batched fee; and
- 81 or more items/services: 130% of batched fee.

Approved single and batched flat fees for CY 2023 are listed by certified IDR entity name on the Centers for Medicare & Medicaid Services website. There are currently 13 certified IDR entities, two of which are not accepting new disputes at this time. The average rate increase compared to 2022 is 33.1% for single determinations, and 21.2% for batched determinations.