



Prepared Testimony to

Reject the IDR Budget Legislation from Part E of HHS

**Testimony from Spine Medicine and Surgery of Long Island Regarding
the Adverse Impact of Part E in the HHS Budget**

To Whom It May Concern,

Spine Medicine and Surgery of Long Island is an independent spine care practice serving patients across Nassau and Suffolk Counties. We provide specialty spine surgical services and cover emergency room calls at multiple hospitals throughout Long Island.

As an independent practice, we take pride in accepting patients with all insurance plans, including those with Managed Medicaid plans such as HealthFirst and Fidelis Care. In our experience, Managed Medicaid covers some of the most vulnerable members of our community, who often face significant barriers in accessing specialty spine care. Many spine practices have found that Managed Medicaid reimbursement rates are too low to sustain financial viability. Our practice has only been able to continue accepting Managed Medicaid patients due to the New York State Independent Dispute Resolution (IDR) process, which allows us to challenge underpayments through a fair and independent third-party review.

Emergency room call coverage is another critical service we provide to our local community hospitals. Our team ensures 24-hour availability for acute spinal emergencies, including spinal cord injuries, infections, and epidural hematomas (spinal bleeds). Covering emergency call is resource-intensive, requiring our physicians to respond to hospitals overnight and, at times, reschedule office visits at the last minute. Despite the challenges, we remain

committed to providing this essential service. However, we are deeply concerned about the financial sustainability of continuing to take emergency calls without access to the IDR system, which allows us to challenge insurer underpayments after lifesaving emergency care has been provided.

For example, before the IDR system was available, one of our spinal surgeons performed an emergent decompression and fusion surgery at 1:00 AM on a patient with hemiplegia. Thanks to this timely intervention, the patient was able to walk out of the hospital within days, with no neurological deficits. However, when the surgical bill was submitted to the patient's Managed Medicaid plan, the insurer reimbursed only \$350, with no recourse to challenge this gross underpayment. Without the IDR system, continued emergency call coverage under such conditions would be financially unsustainable.

Our practice is proud to serve the Long Island community by providing accessible, high-quality spine care. Attached to this testimony is a letter from a Managed Medicaid patient who was able to receive critical treatment through our practice. This letter has been submitted with the patient's permission. Additionally, many other grateful patients are willing to provide written testimony if requested by the committee.

Thank you for your attention to this urgent issue affecting patient access to care in New York State.

Spine Medicine and Surgery of Long Island
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2/10/25

To whom it may concern:

As a two time surgical recipient, I'm very happy to tell you that I have been able to return to my life and work. I write this letter to make you aware that without my insurance coverage through Health First I would not have the funds to financially afford these procedures. My family and I would have been faced with some very difficult decisions. I humbly request that you please consider keeping me and the many other patients covered so we can continue to look forward to a pain free future.

Thank you,

Bob Graham

MEMO OF OPPOSITION TO REMOVING MEDICAID MANAGED CARE IDR

We understand that an argument has been made that federal law prohibits state IDR proceedings for Medicaid managed care plans. This is simply incorrect.

The Federal No Surprises Act is an IDR process that prevents surprise bills in emergency situations. *See* 42 U.S.C. § 300gg-111. It applies a broad definition of "emergency." *Id.* § 300gg-111(a)(3)(C). Also, the Federal NSA does not permit Medicaid (including Medicaid managed care) plans to be arbitrated under any of these emergency scenarios. <https://www.cms.gov/files/document/faq-providers-no-surprises-rules-april-2022.pdf>

On the other hand, New York's IDR process has two branches - an emergency IDR branch and a surprise bill IDR branch. Financial Services Law §§ 601-08. New York, to match the NSA, broadened its definition of emergency to match the Federal NSA definition. DFS Circular 10-2021. Thus, the Federal NSA and the New York emergency IDR procedures are consistent and neither permit Medicaid (including Medicaid managed care) plans to be arbitrated.

But New York has another branch of its IDR since its inception in 2015, the surprise bill IDR. Financial Services Law § 607. This branch of the New York law does not run afoul of the Federal NSA as the federal NSA permits states to have broader laws. *See* attached memo.

It is under this surprise bill IDR that Medicaid managed care plans may be subject to IDR for specific post-ER, post-stabilization services. Financial Services Law § 607. While Medicaid regulations and the state's model contract contains a provision requiring Medicaid managed care plans to reimburse out-of-network physicians providing emergency services in accordance with the Medicaid fee-for-service schedules, there is no comparable provision regarding post-stabilization services. Thus, while there is an obligation for the Medicaid managed care plans to cover post-stabilization services provided by out-of-network physicians, there is no provision requiring Medicaid fee schedule reimbursement for those services. 42 C.F.R. § 438.114 (c).

The Governor's office is failing to understand the distinction between the NY IDR 2-branch paradigm and the Federal NSA 1-branch paradigm and that the emergency branch of the NY IDR paradigm is consistent and compliant with the Federal NSA. They also are failing to recognize the clear CMS directive that permits a State to cast a wider consumer protection IDR net, which NY has with its second surprise bill IDR branch that has successfully protected vulnerable Medicaid managed care patients since 2015.

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Re: Managed Medicaid

Dear Governor Hochul,

It has come to our attention that you are considering ending the IDR process for the Managed Medicaid claims.

I would like to inform you that the patients that are covered by MMC are amongst the most vulnerable population of our community. I am a sole practitioner that takes emergency call at multiple hospitals on Long Island and Queens. These patients who present to the hospital most times have severe injuries that require further multiple operations.

At most hospitals, there are not many if not any hand and plastic surgeons who participate with these MMC plans and thus these patients would be left without anyone covering their needed surgery. Please note that the managed Medicaid rates are too low to maintain viability of our practice finances, thus, we would be forced not to continue caring for these patients. The IDR process is the only way we can challenge fair payment for our services.

We are proud to serve our community and provide the needed and necessary care to all patients and in order to continue to serve the MMC patients we are requesting you to continue allowing the IDR process to cover the MMC claims.

Thank you for your attention to this critical issue impacting patient access to care in NY State.

Homayoun Sasson, MD