

EXHIBIT 9



BlueCross BlueShield of North Carolina Abuses No Surprises Act Regulations to Manipulate the Market Before Law Takes Effect

Insurance company jeopardizing patient access to care through 'take it or leave it' ultimatums to in-network clinicians

CHICAGO – Today, the American Society of Anesthesiologists expressed grave concern about the strong-arm tactics of BlueCross BlueShield of North Carolina and its abuse of the new federal law designed to protect patients from out-of-network bills. The [letters](#) being sent to anesthesiology and other physician practices in the state threaten contract termination and the physicians' in-network status unless the physicians immediately agree to payment reductions ranging from 10 to over 30%. Implementation of the *No Surprises Act* is cited in the letters as the impetus for the reductions. The clear intent of the insurance company in taking this action is to improve its negotiating position against community physician practices in the dispute resolution process outlined in the recently released Interim Final Rule implementing the legislation.

The *No Surprises Act*, which was passed in December 2020, was designed to protect patients from surprise out-of-network bills. Although the law intended to resolve payment disputes through an impartial arbitration system, recent rules promulgated by the Departments of Health and Human Services, Labor, and Treasury will create a system that unfairly favors insurance companies. The evidence of this bias and this insurance company's intention to exploit the new rules is clearly demonstrated in the demand letters from BlueCross BlueShield of North Carolina weeks before the law even takes effect.

“Instead of expanding in-network access for patients, BlueCross BlueShield of North Carolina has demonstrated what we explained to Congress and the rule-making agencies would happen: insurance

companies will use their overwhelming market power and the *No Surprises Act*'s flawed rules to push more physicians out of insurance networks and fatten their own bottom line." said ASA President Randall M. Clark, M.D., FASA. "Insurance companies are threatening the ability of anesthesiologists to fully staff hospitals and other health care facilities. Left unchecked, actions like these of BlueCross BlueShield of North Carolina will ultimately compromise timely access to care for patients across the country."

ASA has previously called upon the U.S. Department of Justice to address these and other recent anticompetitive insurance company tactics.

THE AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Founded in 1905, the American Society of Anesthesiologists (ASA) is an educational, research and scientific society with more than 54,000 members organized to raise and maintain the standards of the medical practice of anesthesiology. ASA is committed to ensuring physician anesthesiologists evaluate and supervise the medical care of patients before, during and after surgery to provide the highest quality and safest care every patient deserves.

For more information on the field of anesthesiology, visit the American Society of Anesthesiologists online at asahq.org. To learn more about the role physician anesthesiologists play in ensuring patient safety, visit asahq.org/madeforthismoment. Like ASA on [Facebook](#)  and follow [ASALifeline](#)  on Twitter.

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November 5, 2021

[REDACTED]

Re: Necessity to amend rate agreement, response needed before November 21, 2021.

Dear Provider:

[REDACTED] is likely aware of the passage of the federal "No Surprises Act" in December of 2020, with an impending effective date of January 1, 2021. Under this law, payments from health plans to out-of-network providers in many circumstances will be set at the "Qualifying Payment Amount" (QPA) which is generally calculated at the median in-network contracted rate for the same or similar specialty within the applicable geographic area. The law applies with respect to out-of-network emergency services, out-of-network professional services at a visit to an in-network facility, and air ambulance services. It applies to our commercial networks (non-Medicare Advantage, non-Medicaid). The QPA paid by health plan to the out-of-network provider constitutes payment in full unless certain limited exceptions apply for a given QPA. These exceptions include express prior patient disclosure and consent, or successful challenge in arbitration.

This new federal law allows a significant change to Blue Cross and Blue Shield of North Carolina's contracting approach with emergency service providers, hospital-based providers, and air ambulance services. Where previous state law could result in an obligation to pay at full charges if no contract is in place, the new law sets reasonable limits on payment at the median in-network rate. Where Blue Cross NC may have previously contracted at what we deemed an inflated rate that is at least somewhat lower than charges in order to avoid paying at full charge, we are now able to seek to contract at a rate more in line with what we consider to be a reasonable, market rate.

We have identified [REDACTED] as one of our outlier in-network providers with respect to rates. While the exact, final QPAs are not yet available pending upcoming finalization of the Rules to the No Surprises Act, the Interim Final Rules provide enough clarity to warrant a significant reduction in your contracted rate with Blue Cross NC. If we are unable to establish in-network rates more in line with a reasonable, market rate, our plan is to terminate agreements where the resulting out-of-network QPA would reduce medical expenses to the benefit of our customers' overall premiums.

Our ask of you at this point is as follows. We are seeking an immediate reduction in rates under our commercial agreement, as in interim step to the January 1, 2022 effective date of the No Surprises Act. This interim reduction will buy us breathing room to negotiate the final rates in light of the QPA amounts established in accordance with the upcoming Rules. With the interim reduction in place, we will not need to quickly terminate outlier contracts as a means of avoiding

payment levels after January 1, 2022 that are significantly higher than the default out-of-network QPA. Our reduction proposal, for a **December 15, 2021 effective date**, is **-15%**. We ask that you respond to this letter indicating your intention to agree, or providing a specific, comparable counterproposal. If we are able to reach agreement on the rate reduction we will quickly provide a simple rate amendment for your execution. If we are unable to reach agreement on the reduction, our intention is to proceed with identifying and executing on terminations of outlier contracts where the out-of-network QPA will result in significant savings to the benefit of our customers.

Thank you for your prompt attention to this request and your response before November 21, 2021. We hope and trust that we can update and maintain our ongoing partnership for January 1, 2022 and well beyond. If you have any questions, please contact Sr. Contract Manager, Colleen Thedieck, Colleen.Thedieck@bcbsnc.com at (984) 960-3749.

Sincerely,



Mark Werner
Vice President, Provider Networks