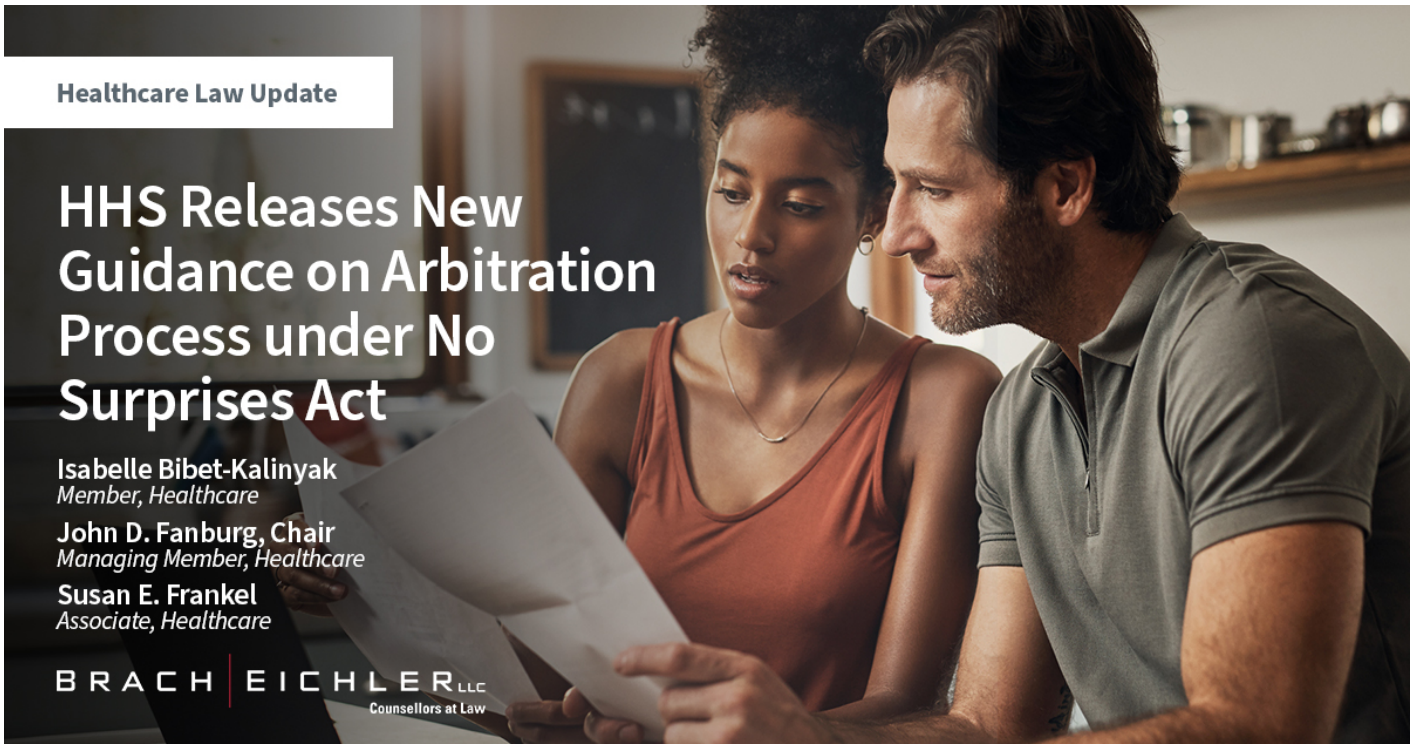
HHS Releases New Guidance on Arbitration Process under No Surprises Act



As previously reported in our March 8, 2022 client alert, a Texas court set aside key parts of the Independent Dispute Resolution (IDR) process under the federal No Surprises Act. In light of the court's ruling, the U.S. Departments of Health & Human Services, Treasury, and Labor released guidance on April 12, 2022 updating the IDR process with respect to the arbitrator's analysis for determining the applicable out-of-network reimbursement.

The Texas court ruled that the initial regulations established under the No Surprises Act improperly instructed arbitrators to presume the Qualify Payment Amount (QPA) – the payor's median in-network contracted rate – is the appropriate reimbursement. The provider must then rebut that presumption with credible evidence of other factors that the arbitrator will consider in order to deviate from the QPA, but those factors must show that the QPA is "materially different" from the appropriate out-of-network rate. The No Surprises Act statute enacted by Congress, however, did not give extra weight to the QPA. The updated guidance outlines credible information that must be considered by the arbitrator as well as factors the arbitrator may not consider.

Click here to read the entire April 2022 Healthcare Law Update now

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