

APPENDIX 6:
Certified Independent Dispute Resolution (IDR) Entity’s Written Decision of Payment Determination Data Elements

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued rules establishing a Federal independent dispute resolution process (Federal IDR process) that nonparticipating providers and facilities, nonparticipating providers of air ambulance services, and group health plans and health insurance issuers in the group and individual market, and Federal Employees Health Benefits (FEHB) carriers, may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for certain items and services. More specifically, the Federal IDR process may be used to have a certified IDR entity determine the out-of-network rate for emergency services (in certain circumstances), certain nonemergency items and services furnished by nonparticipating providers at participating health care facilities, and for air ambulance services furnished by nonparticipating providers of air ambulance services when an All-Payer Model Agreement or specified state law does not apply. Additionally, a party may not initiate the Federal IDR process if, with respect to an item or service, the party knows or reasonably should have known that the provider or facility provided notice and obtained consent from a participant, beneficiary, or enrollee to waive surprise billing protections consistent with Public Health Service Act sections 2799B-1(a) and 2799B-2(a) and the implementing regulations at 45 CFR 149.410(b) and 149.420(c)-(i).

Once the certified IDR entity has made a payment determination, the certified IDR entity must provide the underlying rationale for its determination in a written decision submitted to the parties and the Departments. The certified IDR entity must submit the decision through the Federal IDR portal in a form and manner specified by the Departments in guidance. This written decision will inform the reports the Departments are required to provide to the public under Internal Revenue Code section 9816(c)(7), Employee Retirement Income Security Act of 1974 section 716(c)(7), and Public Health Service Act section 2799A-1(c)(7) and will assist in ensuring that the certified IDR entities comply with the requirements of the Federal IDR process. The decision will also contain instructions for the parties with regard to making payments.

The table below identifies data elements that certified IDR entities must include in the written decision. Certified IDR entities will submit this information through the Federal IDR portal.

| DATA ELEMENT | DESCRIPTION |
|---|--|
| Certified IDR Entity Written Decision of Payment Determination | |
| Payment Determination | Which of the parties’ offers the certified IDR entity selected to be the appropriate out-of-network rate for the qualified IDR item or service. The parties should be identified by name and IDR reference number. |

| DATA ELEMENT | DESCRIPTION |
|--|--|
| Batched Payment Determinations (if applicable) | For each qualified IDR item or service in a batched payment determination, which of the parties' offers the certified IDR entity selected to be the appropriate out-of-network rate for the qualified IDR item or service. The parties should be identified by name and IDR reference number. Each qualified IDR item or service should be identified by a claim number. In addition, the certified IDR entity should indicate which party prevails in the overall payment determination, which will be the party with the higher number of determinations in its favor, should each party receive at least one favorable determination. |
| Written Decision | The certified IDR entity must provide an explanation of the decision that includes what information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount (QPA) and any additional credible information submitted by a party in compliance with the rules. |

Paperwork Reduction Act Statement

According to the Paperwork Reduction Act of 1995 (Pub. L. 104-13) (PRA), no persons are required to respond to a collection of information unless such collection displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is 1210-0169. The time required to complete this information collection is estimated to be 2 hours and 15 minutes per response, including time for reviewing general information about requesting assistance, gathering information, completing and reviewing the collection of information, and uploading attachments if applicable. Interested parties are encouraged to send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employee Benefits Security Administration, Office of Regulations and Interpretations, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email ebbsa.opr@dol.gov and reference the OMB Control Number 1210-0169. Note: Please do not return the completed request for assistance to this address.