

APPENDIX 2:
Federal Independent Dispute Resolution (IDR) Process:
Notice of Agreement Data Elements

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued regulations establishing a Federal independent dispute resolution process (Federal IDR process) that nonparticipating providers or 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) Program 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 determine the out-of-network rate for emergency services furnished by nonparticipating providers or facilities, nonemergency items and services furnished by nonparticipating providers at participating health care facilities, and air ambulance services furnished by nonparticipating providers of air ambulance services where 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 PHS Act sections 2799B-1(a) and 2799B-2(a) and the implementing regulations at 45 CFR 149.410(b) and 149.420(c)-(i).

The table below identifies data elements that an initiating party must provide if the parties to the Federal IDR process agree on an out-of-network rate for a qualified IDR item or service after providing notice to the Departments of initiation of the Federal IDR process, but before the certified IDR entity has made its decision. Under the proposed rules, the notice of agreement would also be sent to the Departments and the certified IDR entity (if selected) to indicate that both parties agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate.

This notification must be sent electronically through the Federal IDR portal as soon as possible, but no later than 3 business days after the date of the agreement.

The table below identifies data elements that an initiating party must provide to notify the Departments and the certified IDR entity (if selected) of an agreement of an out-of-network amount or an agreement to withdraw a dispute from the Federal IDR process.

DATA ELEMENT	DESCRIPTION
Identification of the dispute	Dispute number assigned by the Federal IDR portal.

Agreement to an out-of-network rate (if applicable)	The agreed-upon out-of-network rate for the qualified IDR item or service (that is, the total payment amount, including both cost sharing and the total plan or coverage payment).
Agreement to withdraw (if applicable)	A statement that both parties agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate.
Certified IDR entity fee allocation (if applicable)	Allocation of how parties agree to pay certified IDR entity fee (if parties choose not to evenly split the fee).
Signatures	Signatures from authorized signatories for both the initiating and the non-initiating party.

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 Departments and OPM note that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512.

The public reporting burden for this voluntary collection of information is estimated to be 45 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 Research and Analysis, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email ebsa.opr@dol.gov and reference the OMB Control Number 1210-0169. **Note: Please do not submit the data elements or notice described in this document to ebsa.opr@dol.gov. All Federal IDR process data elements and notices must be submitted through the Federal IDR portal at <https://www.nsa-idr.cms.gov/>.**