

Appendix XX:
Federal Independent Dispute Resolution (IDR) Process: Notice of IDR Initiation Data Elements

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued regulations that implement provisions of the No Surprise Act, including rules to establish a Federal independent dispute resolution process (Federal IDR process) that nonparticipating providers or facilities, nonparticipating providers of air ambulance services, and group health plans, health insurance issuers offering group or individual health insurance coverage, or 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 for air ambulance services furnished by nonparticipating providers of air ambulance services where an All-Payer Model Agreement or specified state law does not apply.

The No Surprises Act provides that, if open negotiations do not result in an agreement between the parties for an out-of-network rate by the end of the 30-business-day open negotiation period, a plan, issuer, FEHB carrier, provider, facility, or provider of air ambulance services may then, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (or, for claims subject to a 90-calendar day suspension period, during the 30-business-day period beginning on the day after the last day of the suspension period), initiate the Federal IDR process. The Departments and OPM have issued proposed rules that would amend the Federal IDR initiation process. Under the proposed rules, the initiation date of the Federal IDR process would be the date of receipt of the notice of IDR initiation by the Departments through the Federal IDR portal. Under the proposed rules, the non-initiating party would be required to submit to the initiating party and to the Departments a written notice and supporting documentation in response to the notice of IDR initiation within 3 business days after the date of IDR initiation.

The Federal IDR process is available only for certain services, such as out-of-network emergency services, certain services provided by out-of-network providers at an in-network facility, or out-of-network air ambulance services. The Federal IDR process is also available only if a state All-Payer Model Agreement or specified state law does not apply; otherwise, the state All-Payer Model Agreement or specified state law applies. 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 under the proposed rules that group health plans, health

insurance issuers offering group and individual health insurance coverage, or FEHB carriers and nonparticipating health care providers, facilities, and providers of air ambulance services would be required to submit through the Federal IDR portal, available at <https://www.nsa-idr.cms.gov>, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (or, for claims subject to a 90-calendar-day cooling off period, during the 30-business-day period beginning on the day after the last day of the cooling off period) to initiate the Federal IDR process.

DATA ELEMENT	DESCRIPTION
Identification of the provider, facility, or provider of air ambulance services	Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), the National Provider Identifier (NPI); and if the initiating party is a provider, facility, or provider of air ambulance services, the Tax Identification Number (TIN)
Identification of the plan, issuer, or FEHB carrier	Information sufficient to identify the plan, issuer, or FEHB carrier, including: <ul style="list-style-type: none"> • The plan's, issuer's, or FEHB carrier's registration number, as proposed under 26 CFR 54.9816-9, 29 CFR 2590.716-9, and 45 CFR 149.530, if the plan, issuer, or FEHB carrier is registered under proposed 26 CFR 54.9816-9, 29 CFR 2590.716-9, and 45 CFR 149.530 or an attestation from the initiating party that the plan or issuer was not registered prior to the date that it submitted the notice; • The legal business name of the plan, issuer, or FEHB carrier and the current contact information (name, email address, phone number, and mailing address) of the plan, issuer, or FEHB carrier as provided with the initial payment or notice of denial of payment; and • If the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor)

DATA ELEMENT	DESCRIPTION
Third-party representative (if applicable)	Name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process
Whether dispute includes batched or bundled qualified IDR items or services	Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services
Identification of the qualified IDR item or service that is the subject of the notice of IDR initiation	<p>Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including:</p> <ul style="list-style-type: none"> • The date(s) the qualified IDR item or service was furnished; • If the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan, issuer, or FEHB carrier; • The date the open negotiation period began; • The type of item or service (specifically, whether the qualified IDR item or service is an emergency service as defined in 26 CFR 54.9816-4T(c)(2)(i) or (ii), 29 CFR 2590.716-4(c)(2)(i) or (ii), and 45 CFR 149.110(c)(2)(i) or (ii), a non-emergency service as described in 26 CFR 54.9816-5T(b), 29 CFR 2590.716-5(b), and 45 CFR 149.120(b), or an air ambulance service as defined in 26 CFR 54.9817-3T, 29 CFR 2590.717-3, and 45 CFR 149.30); • Whether the service is a professional service or facility-based service; • The State where the item or service was furnished; • The claim number; • The service code; and • Information to identify the location the item or service was furnished (including place of service code or bill type code)

DATA ELEMENT	DESCRIPTION
Initial payment amount	The initial payment amount (including \$0 if, for example, payment is denied)
Qualifying payment amount	The qualifying payment amount, if provided with the initial payment or notice of denial of payment or if the initiating party is a plan, issuer, or FEHB carrier
Statement regarding patient consent (applicable to providers or facilities)	If the initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR § 149.410(b) or § 149.420(c) through (i)
Statement regarding provider status	A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished
Qualified IDR item or service attestation	Attestation that the item or service under dispute is a qualified IDR item or service, and the basis for the attestation
General information	General information developed by the Departments describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process)
Initial payment or notice of denial of payment	A copy of the initial payment or notice of the denial of payment or other remittance advice that is required to include disclosures proposed under 26 CFR 54.9816-6T(d)(1), 26 CFR 54.9816-6(d)(1), 29 CFR 2590.716-6(d)(1), and 45 CFR 149.140(d)(1), with respect to the item or service
Preferred certified IDR entity	Preferred certified IDR entity

DATA ELEMENT	DESCRIPTION
Open negotiation statement	A statement describing the key aspects of the claim, such as patient acuity or level of training of the provider, facility, or provider of air ambulance that furnished the qualified IDR item or service, discussed by the parties during open negotiation that relate to the payment for the disputed claim, whether the reasons for initiating the Federal IDR process are different from the aspects of the claim discussed during the open negotiation period, and an explanation of why the party is initiating the Federal IDR process, including any of the permissible considerations that serve as the party's basis for initiating the Federal IDR process

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 public reporting burden for this voluntary collection of information is estimated to be approximately 3 hours 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 ebesa.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 ebesa.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/>.**