

APPENDIX 4:

**Federal Independent Dispute Resolution (IDR) Entity Certification
Data Elements**

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued interim final rules 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) carriers may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for certain services. More specifically, the Federal IDR process may be used to determine the out-of-network rate for certain emergency services, 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. 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 a certified IDR entity must provide to the Departments in order to apply for certification.

DATA ELEMENT	DESCRIPTION
IDR Entity Application for Certification	
<i>General Company Information</i>	
Legal IDR Entity Name and Preferred Business Name, if Applicable	IDR entity’s business name as written on their business license, and preferred business name if applicable.
IDR Entity Address	IDR entity’s physical address (and mailing address if different), including street name and number, city, state, and zip code.
IDR Entity Website	IDR entity’s uniform resource locator (URL) linked to the home webpage (e.g., www.IDRentity.org).
Tax ID Number	IDR entity’s taxpayer identification number (TIN), employer identification number (EIN), or Federal tax identification number (FTIN) issued by the Internal Revenue Service.
Primary Contact Information	First name, last name, phone number, and email address of

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DATA ELEMENT	DESCRIPTION
	the person representing the IDR entity on the application.
Secondary Contact Information	First name, last name, phone number, and email address of an additional person, other than the primary contact, representing the IDR entity on the application.
<i>Service Area</i>	
IDR Service Area	All states, including DC and U.S. Territories, where the IDR entity legally operates and intends to provide IDR services under the Federal IDR process.
<i>Expertise</i>	
Documentation to Demonstrate Expertise	Verification (e.g., staff members’ resumes or CVs showing experience or contracts or other arrangements showing experience) that IDR entity has sufficient medical and legal expertise, and sufficient experience in arbitration and claims administration of health care services, managed care, and billing and coding. Additional non-mandatory documentation of expertise may be submitted optionally for consideration as desired.*
<i>Organization Structure and Staffing Plan</i>	
Organization Chart	A graphic representation of the organizational structure and capabilities of the IDR entity, including an organizational chart and the credentials, responsibilities, and number of personnel employed to make determinations.
Staffing Plan	Policies and procedures governing the allocation of staff to case arbitration, including the credentials and responsibilities of staff that will be arbitrating cases, as well as policies and procedures for ensuring proper verification of credentials.
<i>Conflict of Interest Attestation</i>	
Organizational Attestation of No Conflicts of Interest	An attestation indicating the IDR entity is (1) not a group health plan; a health insurance issuer offering group health insurance coverage, individual health insurance coverage, or short-term, limited-duration insurance; an FEHB carrier; or a provider, a facility, or a provider of air ambulance services; (2) not an affiliate or a subsidiary of a group health plan; a health insurance issuer offering group health insurance coverage, individual health insurance coverage, or short-term limited-duration insurance; an FEHB carrier; or a provider, a facility, or a provider of air ambulance services; and (3) not an affiliate or subsidiary of a professional or trade association representing group health plans; health insurance issuers offering group health insurance coverage, individual health insurance coverage, or short-term limited duration insurance; FEHB carriers; or providers, facilities, or providers of air ambulance services.

DATA ELEMENT	DESCRIPTION
Process to Ensure No Conflicts of Interest	Process to ensure that an IDR entity, certified IDR entity or any personnel assigned to a determination does not have a material familial, financial, or professional relationship with a party to the payment determination being disputed, or with any officer, director, or management employee of the plan, issuer, or FEHB carrier; the plan administrator, plan fiduciaries, or plan, issuer, or FEHB carrier employees; the health care provider, the health care provider's group or practice association; the provider of air ambulance services, the provider of air ambulance services' group or practice association, or the facility that is a party to the dispute. This includes policies and procedures for conducting ongoing audits for conflicts of interest, to ensure that should any arise, the certified IDR entity has procedures in place to inform the Departments of the conflict of interest and to mitigate the risk by reassigning the dispute to other personnel in the event that any personnel previously assigned have a conflict of interest.
<i>Indicators of Fiscal Integrity and Stability</i>	
Documentation to Demonstrate Fiscal Integrity and Stability	Three most recent years of IDR entity's financial statements, including balance sheets, income statements, cash flow statements, and statements of changes in owners' equity, or information to otherwise demonstrate fiscal stability.
<i>Internal Controls to Hold Fees</i>	
Internal Controls to Hold Certified IDR Entity Fees and Administrative Fees	Policies and procedures to retain the certified IDR entity fees and administrative fees paid by both parties during the initiation of the Federal IDR process and to return funds as necessary to the prevailing party, and remit funds to CMS.
<i>Fee Schedule</i>	
Standard Fee for Non-Batched Arbitration	Amount an IDR entity will charge for arbitration of items and services on a single bill.
Standard Fee for Batched Arbitration	Amount an IDR entity will charge for arbitration of multiple qualified IDR items or services that are considered jointly as part of a single determination by a certified IDR entity for purposes of the Federal IDR process.
Fee Within Set Range Confirmation	Confirmation whether or not standard fees for non-batched and batched arbitration are within the range set by the Departments.
Alternate Fee Justification	Description of the circumstances that require the alternate fee.
Description of Mitigation	Description of how the alternate fee will be used to mitigate the effect of these circumstances.
<i>Proof of Accreditation or Training</i>	

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Document(s) to Demonstrate Proof of Accreditation or Training	Documentation to show the IDR entity is accredited by a nationally recognized and relevant accrediting organization, such as URAC, or ensure that it otherwise possesses the requisite training to conduct payment determinations (for example, providing documentation that personnel employed by the IDR entity have completed arbitration training by the American Arbitration Association, the American Health Law Association, or a similar organization).
<i>Confidential Health Information</i>	
Confidential Health Information Standards	Process to ensure confidentiality and protection of individually identifiable health information (IIHI).
<i>Reporting Requirements</i>	
Reporting Plan	Documentation describing IDR entity’s ability to comply with reporting requirements to the Departments.
<i>Policies and Procedures for Subcontracting</i>	
Subcontractor Management Plan	Policies and procedures for managing subcontractors.
Attestation of Compliance	Attestation that the IDR entity will oversee subcontractor compliance with IDR entity certification requirements, including requirements ensuring confidentiality and protection of IIHI.
Post-Application and Post-Certification Documentation	
IDR Entity Response to Petition and Appeal of Denial or Revocation Decision (if applicable)	
Response to Petition	If a petition to deny or revoke certification adequately shows a failure to follow the certification requirements or any other failures identified in the interim final rules at 26 CFR 54.9816-8T(e), 29 CFR 2590.716-8(e), and 45 CFR 149.510(e) the Departments will notify the IDR entity requesting certification or the certified IDR entity by providing a de-identified copy of the petition. Following the notification, the IDR entity or certified IDR entity will have 10 business days to provide a response.
Request for a Hearing to Appeal the Denial or Revocation Decision of the Secretary	An IDR entity may appeal the denial of certification decision and a certified IDR entity may appeal the revocation of certification decision by filing a request for hearing under an applicable administrative hearing process within 30 business days of the date of the written denial or revocation. The IDR entity who files a request for a hearing must provide sufficient additional documentation and justification to the Departments to overcome the purpose of denial or revocation.

*Denotes optional submission

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 7 hours and 36 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, and time for Petition for Denial or Withdrawal of IDR Entities. 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 XXXX-XXXX. Note: Please do not return the completed request for assistance to this address.