

Appendix XX:
Federal Independent Dispute Resolution (IDR) Process: Notice of IDR Initiation Response 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 Surprises 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 must 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 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 out-of-network of nonparticipating health care providers, facilities, and providers of air ambulance services would be required to submit in the notice of IDR initiation response.

| 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 legal business name, email address, phone number, and mailing address), and the National Provider Identifier (NPI); and if the non-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 | <p>Information sufficient to identify the plan or issuer, including:</p> <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 26 CFR 54.9816-9, 29 CFR 2590.716-9, and 45 CFR 149.530 or an attestation from the non-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 non-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) |
| Third-party representative (if applicable) | The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the non-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 |

| DATA ELEMENT | DESCRIPTION |
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| Identification of the item or service that is the subject to the notice of IDR initiation response | <p>Information sufficient to identify each item or service included in the notice of IDR initiation, including:</p> <ul style="list-style-type: none"> • The date(s) the item or service was furnished; • If the non-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; and • The claim number |
| Statement about initial payment amount and qualifying payment amount (plans and issuers) | <p>If the non-initiating party is a plan issuer, or FEHB carrier, a statement as to whether the non-initiating party agrees that the initial payment (including \$0 if, for example, payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including \$0 if, for example, payment is denied) and/or the qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount)</p> |
| Amount of cost sharing (applicable to non-initiating parties that are plans or issuers) | <p>If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for each item or service that is the subject of the dispute, if any</p> |
| Statement regarding patient consent | <p>If the non-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)</p> |
| Qualified IDR item or service attestation | <p>With respect to each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service, an explanation and documentation to support the statement</p> |

| DATA ELEMENT | DESCRIPTION |
|---|---|
| Initial payment or notice of denial of payment confirmation | A statement confirming that the initial payment or notice of denial of payment or other remittance advice provided by the initiating party is accurate, and if inaccurate, a copy of the accurate initial payment or notice of denial of payment or other remittance advice required to include the disclosures 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 |
| Identification of inaccuracies | A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement as well as any supporting documentation |
| Preferred certified IDR entity | A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity |

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 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 ebssa.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 ebssa.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/>.**