

Agencies Finalize Extensive Modifications to Regulations Implementing Surprise Billing IDR

EBIA Weekly (June 4, 2026)

Federal Independent Dispute Resolution Operations: Final Rule, 26 CFR Part 54; 29 CFR Part 2590, 91 Fed. Reg. __ (June 4, 2026); CMS Fact Sheet: Federal Independent Dispute Resolution Operations Final Rule (May 28, 2026)

[Final Rule](#)

[Fact Sheet](#)

The DOL, HHS, and IRS have issued final regulations addressing federal independent dispute resolution (IDR) operations under the No Surprises Act (NSA). As background, the agencies proposed extensive modifications to the IDR process in 2023, including changes to early communications between group health plans, insurers, and providers; eligibility determinations; administrative fees; and batching rules. The final rules are intended to improve the functioning of the federal IDR process by streamlining communication between plans, insurers, providers, and certified IDR entities, and by clarifying timelines and processes. Highlights include:

- **Communication Between Plans, Insurers, and Providers.** When communicating the qualifying payment amount and contact information for initiating open negotiation, health plans and insurers must provide additional information when sending an initial payment or notice of denial of payment, including the legal business name of the self-insured health plan or insurer, the legal business name of the plan sponsor (if applicable), and the plan's IDR registration number.
- **Open Negotiation.** A party to a dispute must provide an open negotiation notice to the other party and the agencies through the federal IDR portal to initiate the 30-business-day open negotiation period, and the receiving party must furnish an open negotiation response notice by the 15th business day of that period.
- **Claims Batching.** The current provisions for batching multiple related claims for resolution in a single proceeding are amended to allow qualified IDR items and services to be batched in these circumstances: (1) items and services are furnished to a single patient on the same or consecutive dates of service and billed on the same claim form; (2) items and services are furnished to one or more patients and billed under the same service code or a comparable code under a different procedural code system; and (3) anesthesiology, radiology, pathology, and laboratory items and services are furnished to one or more patients under service codes belonging to the same Category I CPT billing code section. Batched determinations are limited to 50 qualified IDR line items per dispute.
- **IDR Eligibility.** Because the complexity of determining whether disputes are eligible for the federal IDR process has been identified as the primary cause of delays in processing disputes, certified IDR entities must determine eligibility within five business days of final certified IDR entity selection and notify both disputing parties and the agencies. Plans, insurers, and providers must submit any additional information requested within five business days of the request.

- *Administrative Fees.* An administrative fee of \$15 per party per dispute (dropped from \$115) is required, regardless of the amount in dispute or the dispute's eligibility. If either party fails to pay the administrative fee or the certified IDR entity fee by the time the party's offer is due, that party's offer will not be considered received. The agencies also clarify that their right to collect unpaid administrative fees is consistent with federal debt collection laws.
- *Applicability Dates.* The lower administrative fee of \$15 per party per dispute will apply to disputes initiated on or after five business days after publication of the final rules. Most other modifications generally will apply to disputes beginning 60 days after publication or 90 days after the agencies issue guidance announcing that the supporting functionality is available.

EBIA Comment: These final rules represent a significant step in the agencies' ongoing efforts to address inefficiencies in the federal IDR process, which has been burdened by high dispute volumes and complex eligibility determinations. Plan sponsors and their advisors should take note of the new communication requirements as these will require coordination with insurers, TPAs, and other service providers. Self-insured health plans should be particularly attentive to the updated batching rules, which differ in important respects from the proposed rules. For more information, see EBIA's Health Care Reform manual at Section XII.B.3 ("Surprise Medical Billing: Emergency and Non-Emergency Services"). See also EBIA's Group Health Plan Mandates manual at Section XIII.B ("Patient Protections") and EBIA's Self-Insured Health Plans manual at Section XIII.C ("Federally Mandated Benefits").

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