

Departments Issue Final Rules on Independent Dispute Resolution (IDR) Operations

By Kerri Willis and Ben Lupin | Compliance & Policy Consulting (CPC)

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Key Takeaways

- The Departments of Health and Human Services, Labor, and Treasury (the Departments) issued [final rules](#) to update the operation of the federal IDR process used to determine appropriate payment amounts for services covered under the federal No Surprises Act (NSA).
- According to the Departments, the final rules are designed to improve how the IDR process functions through better communication and streamlining the processes. However, the final rules do not address many of the existing issues with the current IDR process that have been identified as increasing costs for employer group health plan (plan) sponsors.
- The final rules also impose additional registration obligations for plans and may make it easier for more claims to be submitted to the IDR process.
- These final rules are generally effective on August 3, 2026, although certain provisions may have later applicability dates and will rely on additional guidance from the Departments. Plan sponsors should discuss these changes with their medical carriers/service providers to determine how these changes may impact their specific plans and plan costs.

Background

The NSA was passed as part of the Consolidated Appropriations Act, 2021, and was designed to protect patients from balance billing by providers when a patient is treated by an out-of-network (OON) provider in emergency situations and when a patient is treated by an OON provider in an in-network health care facility. The NSA also applies when a patient utilizes an OON air ambulance provider. In addition to protecting patients from surprise medical bills for services covered under the NSA, the NSA established a process to determine the appropriate payment amount for the plan to pay an OON provider for these services.

While the NSA has been largely successful at protecting patients from surprise medical bills, the IDR process, which is designed to determine the appropriate amount the plan must pay the OON provider (via “baseball style” arbitration), has not worked as intended and has resulted in significantly higher number of claims going through the IDR process. In turn, that has led to increased costs for employer plan sponsors. While the Departments’ final rules address some of these operational issues, they do not address some of the significant process problems leading to higher employer costs, particularly with respect to the number and eligibility of claims going through the IDR process or payment amounts that are awarded often far in excess of benchmark rates.

Summary of the Final Rules

Required Disclosures

The final rules include a series of new requirements designed to help resolve payment disputes before they are submitted to the IDR process. These include a requirement for plans to provide information to providers using specific codes to determine whether a payment dispute is subject to the federal IDR process (i.e., claim adjustment reason codes and remittance advice remark codes). The intent of this requirement, according to the Departments, is to facilitate better communication and transparency between the plan and provider during the period that precedes submission of the claim to the IDR process with the intent of reducing the number of payment disputes ultimately submitted to the IDR process.

The final rules also include a requirement that plans provide additional information at the time the plan sends an initial payment or notice of denial of payment (as required under the NSA). This additional information includes the name of the self-insured group health plan or issuer, the name of the self-insured group health plan sponsor (if applicable), and the registration number assigned to the plan (more on the registration below). Plans are also required to include a statement in these disclosures that providers must notify the Departments to initiate the “open negotiation” period required to precede the IDR process. Plans must also provide information about the plan’s Qualifying Payment Amount.

CPC Comment: *Plan sponsors should discuss these changes with their carriers/service providers to confirm the implementation of these changes and any costs associated with the implementation that will be passed along to the plan sponsor.*

Federal Registry

The final rules require plans to register with the Departments and provide additional information as to items and services covered by the plan that may be subject to the IDR process. In turn, plans will receive an IDR registration number that will be used to facilitate the IDR process and is designed to make it easier to determine whether certain claims are eligible for the IDR process. Registration will be required initially and within 30 days of any changes. Additionally, a confirmation will be required annually.

CPC Comment: *Plans will be required to register within 90 days after the registry is available. Plan sponsors will want to discuss this requirement with their carriers/service providers to confirm who will register on behalf of the plan once the registry is available.*

Open Negotiation

Under the NSA, plans and providers are required to engage in a 30-day “open negotiation” period to determine payments for services covered under the NSA before accessing the IDR process. However, in practice, the open negotiation process has not been an effective mechanism for limiting the number of claims decided through the IDR process. The final rules make several changes to the open negotiation process including a requirement that a party provide an open negotiation notice to both the other party and the Departments through the IDR portal and clarify when the 30-business-day open negotiation process begins. The final rules also include several new content elements designed to help

parties to the dispute understand what items and services are at issue and whether the IDR process applies. Finally, the rules include a requirement that the party receiving an open negotiation notice respond to the initiating party and the Departments by the 15th business day of the 30-business-day open negotiation period.

CPC Comment: *While changes to the process may be helpful for improving communication and potentially settling disputes before the IDR process is activated, they do not address the need for the parties to negotiate in good faith during open negotiation.*

IDR Process Changes

The NSA established the IDR process as a final step for determining the appropriate amount for plans to pay OON providers for services that fall under the NSA, if the dispute is not settled during open negotiation. As noted above, the process has not worked as intended, with many more claims going through the IDR process than originally estimated, many ineligible claims making their way into the process, and amounts awarded to providers exceeding benchmark rates for services.

According to the Departments, the final rules adopt certain revisions to the IDR process designed to limit ineligible claims from going through the IDR process. For example, the final rules require IDR entities to determine whether claims are eligible within five business days and notify both parties and the Departments. The Departments are also finalizing a requirement for parties to submit additional information related to eligibility, conflicts of interest concerns, or payment determinations to the IDR entity within five business days of the request for additional information. If the information is not provided, the IDR entity will make a determination without the information or close the dispute if it cannot proceed without the information.

CPC Comment: *These changes do not appear to go far enough to address concerns with the number of ineligible claims going through the IDR process or address the award amounts that are often far in excess of benchmark rates, as well as just the sheer number of claims going through the IDR process.*

Under the NSA and its regulations, initiating parties have the ability to include multiple similar items and services as separate payment determinations in a single dispute, known as batching. The final rules make changes to the requirements for batching with the goal of increasing efficiency and organization for batched determinations. The Departments plan to release clarifying guidance on batching requirements.

IDR Fees

The NSA requires both parties to pay a non-refundable administrative fee for participating in the IDR process, in addition to the certified IDR entity fee. The current administrative fee amount is \$115 per party for each dispute. The final rules reduce that amount to \$15 per party for each dispute.

CPC Comment: *Lowering the administrative fees for bringing a dispute to the IDR process may have the practical effect of increasing the number of disputes using the IDR process, including ineligible and lower value disputes. And since IDR entities are paid only when a dispute makes its way*



through the IDR process, there are limited incentives for an IDR entity to determine that a claim is ineligible for the IDR process. The final rules do not address this concern.

Next Steps

While the final rules generally go into effect on August 3, 2026, many provisions will go into effect later after additional guidance or implementation of specific technical requirements is released by the Departments. Plan sponsors should talk to their carriers/service providers to understand how these changes may impact their plans, any costs to implement these changes that will be passed along to plan sponsors, and the specific impact of the NSA and IDR process on plan sponsors and their plan costs both currently and after implementation of these changes. See Aon's April 2026 [issue brief](#) for additional actions plan sponsors should consider taking.

Contact the CPC team or the Health Data Analytics team for additional information.



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