

# Federal Independent Dispute Resolution Process Status Update

**August 19, 2022**

On April 15<sup>th</sup>, 2022, the Departments of Health and Human Services (HHS), Labor, and the Treasury (the Departments) launched the federal Independent Dispute Resolution (IDR) portal for providers, facilities, and providers of air ambulance services, as well as group health plans and health insurance issuers (collectively, disputing parties), to facilitate the federal IDR process for items and services subject to the surprise billing protections in the No Surprises Act. Since launching the federal IDR portal, the Departments have received status update requests from stakeholders asking the Departments to share data about the disputes initiated through the federal IDR portal. The No Surprises Act requires that the Departments publish certain information about the federal IDR process for each calendar quarter. Due to a pause in the launch of the federal IDR portal to address a court ruling (see February 28, 2022, guidance at: <https://www.cms.gov/files/document/memorandum-regarding-continuing-surprise-billing-protections-consumers.pdf>), the federal IDR system first went live on April, 15, 2022. There is no data to report for the first quarter of 2022. The Departments are continuing to collect and review data on the IDR process for public reporting.

The figures provided here are an initial status update on the current implementation of the federal IDR process. The Departments will also continue to make more information available on the federal IDR process and are committed to transparency in this process.

## High Volume of Disputes

Between April 15<sup>th</sup> and August 11<sup>th</sup>, disputing parties initiated over **46,000** disputes through the federal IDR portal, which is substantially more than the Departments initially estimated would be submitted for a full year. Of the disputes initiated between April 15<sup>th</sup> and August 11<sup>th</sup>, certified IDR entities rendered a payment determination in over **1,200** disputes. Between April 15<sup>th</sup> and August 11<sup>th</sup>, non-initiating parties challenged over **21,000** disputes' eligibility for the federal IDR process, which constitutes nearly half of all disputes initiated. This does not necessarily mean that these disputes are ineligible, only that a party has challenged the eligibility of a dispute and that additional review by the certified IDR entities is necessary to determine eligibility. As a result of eligibility challenges, preliminary data suggests that certified IDR entities have already found over **7,000** disputes ineligible for the federal IDR process. Certified IDR entities have also determined a number of disputes to be eligible for the federal IDR process despite eligibility challenges made by non-initiating parties.

## Contested Dispute Eligibility

The primary cause of delays in the processing of disputes is the complexity of determining whether disputes are eligible for the federal IDR process. Eligibility for the federal IDR process turns on a number of factors, such as state/federal jurisdiction, correct batching and bundling, compliance with applicable time periods, and completion of open negotiations.

Eligibility reviews conducted by certified IDR entities are processed more quickly when both parties provide all of the information required for federal IDR initiation, including the disclosures (in particular, disclosures of the qualifying payment amount and necessary contact information) required of plans and issuers when they make an initial payment or provide a notice of denial of payment and a complete submission by the initiating party. For this reason, the Departments published a [checklist](#) for plans and

issuers including the information that they are required to disclose with the initial payment or notice of denial of payment. The Departments are of the view that increased understanding and compliance with the disclosure requirements and complete submissions by initiating and non-initiating parties will foster the exchange of necessary information within the federal IDR process, resulting in faster completion of the eligibility review. To that end, the Departments are continuing to publish guidance to help disputing parties and certified IDR entities resolve disputes expeditiously, including the most recent set of [guidance](#) for certified IDR entities.

#### *Future Guidance and Data*

The Departments understand that many disputing parties are still learning how to navigate the federal IDR process and how to comply with the No Surprises Act. The Departments' approach to implementation of the federal IDR process is and will continue to be marked by an emphasis on helping parties understand the new law to facilitate compliance. The Departments have worked to provide guidance, trainings, webinars, and other resources to stakeholders to help them understand the federal IDR process, and will continue to publish additional guidance to help certified IDR entities and disputing parties resolve disputes expeditiously. Concurrently with this update, the Departments have issued a final rule relating to information that must be disclosed by plans and issuers to nonparticipating providers, facilities, and providers of air ambulance services about the qualifying payment amount (QPA) and to provide guidance to certified IDR entities related to making payment determinations under the federal IDR process. The final rule and guidance are available on the Department of Labor's and HHS' websites at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/no-surprises-act> and [https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance#No\\_Surprises\\_Act](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance#No_Surprises_Act).

For more information on the federal IDR process please visit: <https://www.cms.gov/nosurprises/help-resolve-payment-disputes/payment-disputes-between-providers-and-health-plans>. Click [here](#) to initiate a dispute.