

## **APPENDIX 6:**

### **Certified IDR Entity's Written Decision of Payment Determination 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 and facilities, nonparticipating providers of air ambulance services, and group health plans and health insurance issuers in the group and individual market, or federal employee 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 have a certified IDR entity 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 when 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).

Once the certified IDR entity has made a payment determination, the certified IDR entity must provide the underlying rationale for its determination in a written decision submitted to the parties and the Departments. The certified IDR entity must submit the decision through the federal IDR portal in a form and manner specified by the Departments in guidance. This written decision will inform the reports the Departments are required to provide under Internal Revenue Code section 9816(c)(7), Employee Retirement Income Security Act of 1974 section 716(c)(7), and Public Health Service Act section 2799A-1(c)(7) and will assist in ensuring that the certified IDR entities comply with the requirements of the federal IDR process. If a certified IDR entity does not choose the offer closest to the qualifying payment amount (QPA), the written decision's rationale must include an explanation of the credible information that the certified IDR entity determined demonstrated that the qualifying payment amount was materially different from the appropriate out-of-network rate, based on the considerations.

The table below identifies data elements that certified IDR entities must include in the written decision. Certified IDR entities will submit this information through the federal IDR portal.

DATA ELEMENT	DESCRIPTION
<b>Certified IDR Entity Written Decision of Payment Determination</b>	
Payment Determination	Which of the parties' offers the certified IDR entity selected to be the appropriate out-of-network rate for the qualified IDR item or service.
Batched Payment Determinations (if applicable)	For each claim in a batched payment determination, which of the parties' offers the certified IDR entity selected to be the appropriate out-of-network rate for the qualified IDR item or service. In addition, the certified IDR entity should indicate which party prevails in the overall payment determination, which will be the party with the higher number of determinations in its favor, should there be determinations that are ruled in favor of both parties.
Explanation of Credible Information Used (if the certified IDR entity does not choose the offer closest to the QPA)	An explanation of the credible information that the certified IDR entity relied upon to determine that the QPA was materially different from the appropriate out-of-network rate based on the considerations allowed under 26 CFR 54.9816-8T(c)(4) (iii)(B) - (D), 29 CFR 2590.716.8(c)(4)(iii)(B) - (D), and 45 CFR 149.510(c)(4)(iii)(B) - (D), with respect to the qualified IDR item or service.

**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 notes 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 2 hours and 15 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 Regulations and Interpretations, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email [ebsa.opr@dol.gov](mailto:ebsa.opr@dol.gov) and reference the OMB Control Number 1210-0144 2719. Note: Please do not return the completed request for assistance to this address.