

Upcoming Changes to the Federal Independent Dispute Resolution (IDR) Portal Procedures

12/12/2022



No Surprises Act Independent Dispute Resolution

Effective the week of December 19, 2022, if an entity that was named in a payment dispute through the Federal Independent Dispute Resolution (IDR) portal attests that the Federal IDR process does not apply to the dispute, that entity will be required to submit additional information, and in some cases, supporting documentation to confirm such statements.

Specifically, an entity responding to a payment dispute will need to submit additional information and documentation in the following situations:

Specified State Law or All-Payer Model Agreement:

- If an entity attests that a dispute is eligible for a state process to determine the out-of-network rate, the entity must provide: specific citation(s) for the state law or regulation that constitutes a specified state law or all-payer model agreement that applies to the items or services in the dispute; and documentation that confirms that the state law applies, including proof of the health plan type.

Open Negotiation Not Completed:

- If an entity attests that the open negotiation period was not completed for a dispute, the entity must provide: the date when the open negotiation period will be completed; and documentation that confirms the open negotiation start date.

Late IDR Initiation:

- If an entity attests that more than four business days have elapsed since the open negotiation period ended, the entity must provide: the date that was the last day in the four business day period after the open negotiation period; and documentation that confirms when the open negotiation period was initiated for the claim or claims subject to the dispute.

Not Covered by NSA:

- If an entity attests that a dispute includes items or services not covered under the No Surprises Act, the entity must provide a list of which items and services included in the dispute were not covered under the No Surprises Act and, for each item or service listed, an explanation as to why it is not covered under the No Surprises Act.
- If an entity attests that a dispute includes items or services that are covered by a coverage type not subject to the No Surprises Act, the entity must provide a list of items or services covered by the coverage type not subject to the No Surprises Act and the coverage type that applies to them.
- If an entity attests that the coverage year for an item or service in a dispute started prior to the No Surprises Act implementation date of January 1, 2022, the entity must provide: the plan or policy year associated with the dispute; and documentation to confirm the date that the plan or policy year started.

Not Covered by Current Insurance Policy:

- If an entity attests that the dispute includes items or services not covered by the patient's insurance policy, the entity must provide: a list of items or services in the dispute that are not covered; and documentation that confirms these items or services are not covered by the patient's insurance policy (such as a copy of the policy).

Improperly Batched or Bundled:

- If an entity attests that a dispute includes items or services that were improperly batched or bundled, the entity must provide a list of the items or services that were improperly batched or bundled, and for each item or service on the list, indicate the batching or bundling requirement that was not met.

Cooling Off Period Not Completed:

- If an entity attests that a 90-calendar-day cooling off period applies to the dispute and has not been completed, the entity must provide: the dispute number for the payment determination that initiated the 90-calendar-day cooling off period; and a copy of the payment determination that initiated the 90-calendar-day cooling off period.

An entity that does not provide the required information and documentation will not be able to submit the independent dispute resolution entity (IDRE) selection response form.

For more information about the federal IDR dispute process, go to the following link:
<https://www.cms.gov/nosurprises/help-resolve-payment-disputes/payment-disputes-between-providers-and-health-plans>

Reminder:

If you have initiated an IDR case through the federal IDR portal in the past, clear your computer's cache or open your initiation form in a private or incognito window to access the updated IDR initiation form.

The Federal IDR Team

Center for Consumer Information and Insurance Oversight (CCIIO)
Department of Health and Human Services
Centers for Medicare & Medicaid Services

Center for Consumer Information & Insurance Oversight