

Provisions in this document related to the calculation of Qualifying Payment Amounts (QPAs) and disputes involving air ambulance services have not been amended to reflect the opinion and order in *Texas Medical Association, et al. v. U.S. Department of Health and Human Services, et al.*, Case No. 6:22-cv-450-JDK (TMA III).

Information on provisions related to batched disputes also have not been amended to reflect the opinions and orders in *Texas Medical Association, et al. v. U.S. Department of Health and Human Services, et al.*, Case No. 6:23-cv-00059-JDK (TMA IV) and TMA III. Guidance issued by the Departments of the Treasury, Labor, Health and Human Services, and Office of Personnel Management on the calculation and use of QPAs, as well as their related exercise of enforcement discretion, can be found in “FAQs about Consolidated Appropriations Act Implementation, 2021 Part 62” (October 6, 2023) (available at: <https://www.cms.gov/files/document/faqs-part-62.pdf>).

Independent Dispute Resolution (IDR) Timeline for Claims¹

Steps Preceding Initiating the Federal IDR Process

| Action | Explanation of Action | Time Requirement | Regulatory Reference ² |
|---|---|---|---|
| A qualified IDR item or service results in a charge for emergency items or services from an Out-of-Network (OON) provider or facility, non-emergency items or services from an OON provider at an in-network facility, or for air ambulance services from an OON provider of air ambulance services | This action defines whether the type of claim is eligible for submission for the Federal IDR process. | This event triggers the timelines described in this chart | https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(a)(2)(xi)(A) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(a)(2)(xi)(A) https://www.ecfr.gov/current/title-26/chapter-1/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(a)(2)(xi)(A) |

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| <p>Initial Payment or Denial of Payment and required disclosures (e.g., qualifying payment amount, contact information, etc.)</p> | <p>Must be sent by the plan, issuer or carrier, no later than 30 calendar days after the day the plan or issuer receives information necessary to decide a claim for payment of services (known as a “clean claim”) is received.</p> | <p>30 Calendar Days (day 1 is the date the plan or issuer receives the information necessary to decide on a claim for payment for services (i.e., a clean claim))</p> | <p>https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.110(b)(3)(iv)(A)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D/section-2590.716-4#p-2590.716-4(b)(3)(iv)(A)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-4T#p-54.9816-4T(b)(3)(iv)(A)</p> |
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¹ This communication was printed, published, or produced and disseminated at U.S. taxpayer expense.

² The three regulatory links in each section provide parallel citations to each of the Departments (Health and Human Services, Labor, and Treasury) regulation for same time requirement.

| Action | Explanation of Action | Time Requirement | Regulatory Reference ² |
|---------------------------------------|--|---|---|
| Initiation of Open Negotiation Period | An open negotiation period must be initiated in writing within 30 business days, beginning on the day the OON provider receives either an initial payment or a notice of denial of payment for the item or service from the plan or issuer. An initiating party may initiate open negotiation even if an issuer or group health plan failed to make some or all of the required disclosures along with the initial payment or notice of denial of payment. | 30 Business Days (day 1 is the day the provider receives an initial payment or denial of payment) | https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(b)(1)(ii)(B) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(b)(1)(ii) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(b)(1)(ii) |
| Open Negotiation Period | Parties must exhaust a 30-business-day open negotiation period before either party may initiate the Federal IDR Process. | 30 Business Days (day 1 is the day the open negotiation notice is first sent by a party) | https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(b)(1)(ii)(B) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(b)(1)(ii) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(b)(1)(ii) |

Federal IDR Process

| Action | Explanation of Action | Time Requirement | Legal Authority |
|---|---|---|---|
| Federal IDR Initiation | Either party may initiate the Federal IDR Process by submitting a written Notice of IDR Initiation to the other party and to the Departments within 4 business days after the close of the open negotiation period ³ . | 4 Business Days (the day after day 30 of open negotiation represents day 1 of counting 4 business days) | https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(b)(2)(i) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(b)(2)(i) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(b)(2)(i) |
| Preliminary Selection of Certified IDR Entity | The non-initiating party may agree or object to the initiating party's preferred certified IDR entity (which is specified in the Notice of IDR initiation) within 3 business days after receipt of the Notice of IDR Initiation. If the party in receipt of the Notice of IDR Initiation objects, that party must notify the initiating party of the objection and propose an alternative certified IDR entity. | 3 Business Days after receipt of Notice of IDR Initiation (the day after the initiation day represents day 1) | https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(c)(1)(i) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(i) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(i) |

³ However, if the close of the open negotiation period falls within the 90-calendar day cooling off period regarding claims for the same or similar item or service, either party may initiate the Federal IDR process for those claims by submitting a Notice of IDR initiation during the 30-business-day period beginning on the day after the last day of the 90-calendar-day cooling-off period.

| Action | Explanation of Action | Time Requirement | Legal Authority |
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| | <p>If the party in receipt of the notice of IDR initiation fails to object within 3 business days, the preferred certified IDR entity identified in the Notice of IDR Initiation will be selected and will be treated as jointly agreed to by the parties, provided that the certified IDR entity does not have a conflict of interest.</p> | <p>3 Business Days after receipt of Notice of IDR Initiation (the day after the initiation day represents day 1)</p> | <p>https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-149#p-149.510(c)(1)(i) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(i) https://www.ecfr.gov/current/title-26/chapter-l/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(i)</p> |
| | <p>If the parties fail to select a certified IDR entity within 3 business days after the receipt of the Notice of IDR Initiation, the initiating party must notify the Departments of the failure no later than 1 business day after the date of such failure (or in other words, 4 business days after initiation of the Federal IDR process).</p> <p>If the non-initiating party believes that the Federal IDR process is not applicable, the non-initiating party must provide information regarding the Federal IDR process's inapplicability through the Federal IDR portal by the same date that the notice of failure to select a certified IDRE must be submitted.</p> | <p>1 business day after the date of the failure to select a certified IDR entity (the day after the failure is day 1) (i.e. 4 business days after initiation of the Federal IDR process))</p> | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(1)(iii)and(iv) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(iii)and(iv) https://www.ecfr.gov/current/title-26/chapter-l/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(iii)and(iv)</p> |

| Action | Explanation of Action | Time Requirements | Legal Authority |
|--|--|--|--|
| | <p>Upon notification that the parties failed to select a certified IDR entity, the Departments will randomly select a certified IDR entity that charges a fee within the allowed range of certified IDR entity fees through a random selection method not later than 6 business days after the date of initiation of the Federal IDR process and will notify the plan or issuer and the provider or facility of the selection.</p> | <p>6 Business Days after IDR initiation date (the day after the initiation day represents day 1)</p> | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(1)(iv)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(iv)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(iv)</p> |
| | <p>After selecting a certified IDR entity, the initiating party must notify the Departments of the preliminary selection no later than 1 business day after such selection.</p> | <p>As soon as practicable but no later than 1 Business Day after the selection (<i>i.e.</i>, not later than the 4th day after IDR is initiated)</p> | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(1)(iii)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(iii)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(iii)</p> |
| <p>Review by Certified IDR Entity and Finalization of Certified IDR Entity Selection</p> | <p>Not later than 3 business days after being selected, the certified IDR entity must submit to the Departments an attestation that it does not have a conflict of interest and determine if the Federal IDR Process is applicable, thereby finalizing its selection.</p> | <p>3 Business Days after the certified IDR entity preliminary selection (the day after the date of the certified IDR entity selection represents day 1)</p> | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(1)(v)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(1)(v)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(1)(v)</p> |

| Action | Explanation of Action | Time Requirements | Legal Authority |
|---|--|---|---|
| Submission of Offers and Payment of Certified IDR Entity Fee and Administrative Fee | <p>Parties must submit their offers not later than 10 business days after the selection of the certified IDR entity.</p> <p>Each party must pay the certified IDR entity fee and the administrative fee by the time they submit their offer (unless the administrative fee has already been paid). If a party fails to pay its fees or submit an offer, the dispute will proceed in the absence of that party's offer.</p> | 10 Business Days after the selection of the certified IDR entity (the day after the date of the selection of certified IDR entity selection represents day 1) | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(4)(i)</p> <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(d)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(4)(i)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(d)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(4)(i)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(d)</p> |
| Selection of Offer | A certified IDR entity has 30 business days after the date of selection of the certified IDR entity to determine the payment amount and notify the parties and the Departments of its decision. | 30 Business Days after the selection of the certified IDR entity (the day after the day of selection of certified IDR entity represents day 1) | <p>https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(4)(ii)</p> <p>https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(4)(ii)</p> <p>https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(4)(ii)</p> |

| Action | Explanation of Action | Time Requirements | Legal Authority |
|---|---|--|---|
| Payments Between Parties of Determination Amount | Any amount due from one party to the other party must be paid no later than 30 calendar days after the determination by the certified IDR entity. | 30 Calendar Days after determination by the certified IDR entity (the day after the date of the certified IDR entity determination is sent represents day 1) | https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(c)(4)(ix) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590/subpart-D#p-2590.716-8(c)(4)(ix) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(c)(4)(ix) |
| Certified IDR Entity Refund of Certified IDR Entity Fee to the prevailing party | The certified IDR entity must refund the certified IDR entity fee paid by the prevailing party within 30 business days after the determination by the certified IDR entity. | 30 Business Days after determination by certified IDR entity (the day after the date of the certified IDR entity determination represents day 1) | https://www.ecfr.gov/compare/2022-08-26/to/2022-08-25/title-45/subtitle-A/subchapter-B/part-149/subpart-F/section-149.510#p-149.510(d)(1)(ii) https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-L/part-2590#p-2590.716-8(d)(1)(ii) https://www.ecfr.gov/current/title-26/chapter-I/subchapter-D/part-54/section-54.9816-8T#p-54.9816-8T(d)(1)(ii) |

Notes:

1. During the IDR process certified IDR entities may request supporting documentation from either or both disputing parties. Generally, parties will have five business days to respond to these requests. If a disputing party does not provide the requested documentation, the certified IDR entity will proceed with making eligibility or payment determinations without that information.
2. The Departments recognize that, due to the high volume of disputes being submitted and the complexity of making eligibility determinations, certified IDR entities are sometimes taking longer than the specified timelines. The departments are making continuous updates to the federal IDR portal and issuing guidance to certified IDR entities and disputing parties to avoid common mistakes that can extend review time. Please visit the CMS [webpage](#) for a list of common mistakes and tips for avoiding them.