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Federal Agencies Finalize Long-Pending No Surprises Act IDR Operations Rule

Key Takeaways

- Federal agencies have finalized the No Surprises Act federal IDR Operations rule after more than two years, with effectiveness tied to Federal Register publication. The final rule governs key operational steps in the federal IDR process for out-of-network payment disputes, but does not change the substantive standard IDR entities apply when selecting between offers.
- The rule lowers the administrative fee to $15 while making the federal IDR process more formal and documentation-driven. Payors will also face new disclosure, remittance-code, registry, open negotiation and IDR response requirements.
- Providers and facilities should prepare for implementation while watching for agency guidance and federal IDR portal updates. The final rule does not announce a new formal comment period, but implementation may create opportunities for facility and provider input.

After more than two years, federal agencies have finalized the Federal Independent Dispute Resolution (IDR) Operations final rule under the No Surprises Act. The final rule follows the proposed rule issued in November 2023 and focuses on how the federal IDR process is supposed to work in practice.

This is not a new payment-standard rule. It does not revive the QPA presumption or rewrite how certified IDR entities decide the correct out-of-network rate. Instead, it addresses the mechanics of IDR, including payor disclosures, remittance codes, open negotiation, IDR initiation, eligibility review, batching, bundled payment arrangements, fee collection and the federal IDR portal.

The practical takeaway is mixed. The administrative fee will drop to $15, which may change the economics of some disputes. But the final rule also adds more structure, more required information and more dependence on future portal functionality. Its real impact will depend on how the agencies implement it, how payors comply with it, how consistently IDR entities apply it and how well facilities and providers adapt their workflows.

The final rule becomes effective 60 days after publication in the Federal Register. The pre-

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publication version released by the agencies does not yet include the actual calendar effective date. The $15 administrative fee applies sooner for disputes initiated five business days after Federal Register publication.

What Facilities and Providers Should Watch as the Rule Takes Effect

As the final rule takes effect, several implementation issues are likely to shape how the federal IDR process works in practice:

- **The administrative fee will drop to $15, but volume may become the next pressure point.** The final rule lowers the federal IDR administrative fee to $15 per party per dispute. The agencies had proposed a $150 fee but did not finalize that amount. A lower fee may make federal IDR more practical for some lower-dollar claims and high-volume portfolios. It may also increase dispute volume, which could create capacity issues for the agencies, certified IDR entities, payors, facilities, providers and the portal. The agencies also did not finalize direct federal collection of administrative fees or separate reduced fees for low-dollar or ineligible disputes.
- **Open negotiation and IDR initiation will move further into the federal portal.** Once the required portal functionality is available, open negotiation will be initiated through the federal IDR portal. The responding party must submit an open negotiation response notice by the 15th business day of the 30-business-day open negotiation period. The rule may create a clearer record of when open negotiation began and whether the other side responded. It may also reduce disputes over payor-specific portals because plans and issuers cannot require facilities and providers to use proprietary payor portals instead of the federal IDR portal for open negotiation notices. But a missed day-15 response does not let a party skip ahead. The 30-business-day open negotiation period still must run.
- **Clean front-end documentation will matter more.** The final rule revises the notice of IDR initiation and creates a more formal response process for non-initiating parties. Facilities and providers should expect more focus on payor identification, claim information, QPA disclosures, remittance documentation and eligibility-related information. Remittance advice, plan identifiers, QPA disclosures, service codes, denial language and open negotiation correspondence should be captured early in the revenue cycle process, not reconstructed after the IDR deadline is already running.
- **Payor disclosures should become more standardized, but not immediately.** The final rule requires plans and issuers to provide additional information with initial payment or denial communications. It also requires standardized claim adjustment reason codes and remittance advice remark codes, known as CARCs and RARCs, for certain NSA-related remittance communications. The goal is to help facilities and providers determine earlier whether a claim may be subject to the NSA, whether federal IDR may be available, whether a state law or all-payor model may apply and which plan or issuer is responsible. The agencies still need to identify the specific codes and set the implementation timeline.
- **Eligibility review will remain with IDR entities.** The agencies did not finalize the proposed departmental eligibility review process. Certified IDR entities remain the primary decisionmakers on federal IDR eligibility. The final rule adds more structure, including timelines and an additional-information process. But eligibility disputes will remain important. Payors may continue to raise eligibility objections, IDR entities will need to apply the rules consistently and facilities and providers will need to respond quickly when more information is requested.
- **Batching and bundling will get revised, not simplified.** The final rule allows batched disputes to include up to 50 line-items, rather than the proposed 25-line cap. It also clarifies when claims may be batched based on a single patient encounter, same or comparable service codes and certain Category I CPT code ranges. For

batched disputes, the cooling-off period will be shortened to 30 business days. But batching remains technical, and the rule will eventually narrow the ability to fix improperly batched disputes after the fact. The final rule also defines bundled payment arrangements and confirms that bundled disputes are not the same thing as batched disputes.

- **Payor registration may help, if the data connects.** The final rule creates a federal IDR registry for plans and issuers. In practice, that should help facilities and providers identify the correct payor entity and determine whether a dispute belongs in federal IDR, a state process or another payment framework. The hard part will likely be matching registry information to remittances, claim-level data, plan identifiers and real-world payor workflows.
- **There is no new general comment period, but implementation is not finished.** The final rule does not announce a new general comment period, and the formal comment periods for the proposed rule have closed. But several major pieces still likely depend on future guidance and portal implementation. Facilities and providers should watch how the agencies handle missing or conflicting remittance codes, deficient payor disclosures, deadlines, high-volume portal submissions, late eligibility objections, claim-line state law indicators, all-payor model indicators and matching payor registration numbers to remittances.

What Facilities and Providers Should Do Now

Facilities and providers should use the implementation period to pressure-test their NSA workflows. That includes open negotiation, IDR initiation, eligibility screening, batching protocols, remittance retention, QPA tracking, payor identification and vendor coordination.

They should also track how payors implement the new disclosure, remittance-code, registry and portal requirements. Payor compliance will be central to whether facilities and providers receive the information they need early enough to evaluate eligibility, preserve deadlines and file clean disputes.

Even without a new general comment period, practical examples from active IDR portfolios may be important as the agencies develop guidance and portal functionality. Facilities and providers should be identifying operational issues now, especially where payor disclosures, remittance codes, registry information or portal workflows may affect access to federal IDR.

Polsinelli's No Surprises Act team is continuing to track implementation timelines, portal updates and agency guidance. Facilities and providers with active IDR portfolios should be evaluating now how the final rule may affect their dispute strategy, revenue cycle operations and payor-specific workflows. Should you have questions regarding the information discussed, please reach out to Josh Arters, Rachel Roberson, Savannah Kolodziej, Olivia Winnett or your preferred Polsinelli attorney.