



Jake Walker

Associate
 303.293.5254
 Denver
 JSWalker@hollandhart.com

Revamp of The No Surprises Act Federal Independent Dispute Resolution Process

Insight — June 26, 2026

One of the most scrutinized aspects of the No Surprises Act has been the Federal Independent Dispute Resolution (“IDR”) process. According to data published by The Centers for Medicare and Medicaid Services (“CMS”), the number of disputes initiated between April 15, 2022, and May 31, 2026, was 6,336,032¹. Of those disputes, 1,066,645 were found to be ineligible and 208,020 were closed due to other events (e.g., withdrawn by disputing parties, outside settlement, administrative closures)². The total volume of disputes far exceeded initial projections by the relevant agencies, creating significant backlogs in the Federal IDR process.

As a result, the U.S. Department of Health and Human Services (“HHS”) (along with the Department of Labor and Department of the Treasury) (collectively, the “Departments”) published a final rule on June 4, 2026, addressing particular aspects of the Federal IDR process including issues with timely rendering of payment determinations, enhancing information sharing between relevant actors, and introducing clearer timeframes for certain steps in the Federal IDR process (the “Final Rule”)³. The Final Rule is effective August 3, 2026, with staggered applicability dates for specific provisions (as shown in the table provided below). The Final Rule represents the most comprehensive revision to the Federal IDR process since its establishment.

Key Takeaways

1. **Reduction in Administrative Fees:** The administrative fee per party per dispute has been reduced from \$115 to \$15 for disputes initiated on or after June 11, 2026. This reduction is expected to improve accessibility to the Federal IDR process, particularly for smaller providers and facilities, while the Departments anticipate this may lead to an increase in dispute volume.
2. **Comprehensive Open Negotiation Reforms:** The Final Rule substantially formalizes the open negotiation process by requiring written notices through the Federal IDR portal, expanding content requirements to include numerous elements, and establishing a mandatory response notice within certain timeframes. These changes are designed to encourage meaningful negotiation before parties incur Federal IDR process costs and to reduce the submission of ineligible disputes.
3. **Standardized Communication Codes:** Plans and issuers must now use standardized claim adjustment reason codes (“CARCs”) and remittance advice remark codes (“RARCs”) on all remittance

advice sent to out-of-network entities. This requirement addresses a critical communication gap that contributed to the high volume of ineligible disputes, enabling providers to better determine whether claims are subject to the No Surprises Act before initiating the Federal IDR process.

4. **Revised Batching Rules and 50-Item Cap:** The Final Rule replaces the previous “same or similar item or services” standard with a broader “treatment of a similar condition” test and imposes a hard cap of 50 qualified IDR items or services per batched payment determination. Items may be batched if they fit within three specific categories (discussed below).
5. **New Plan and Issuer Registration Requirement:** Self-insured group health plans, FEHB Program carriers, and health insurance issuers must register with a new IDR registry and obtain a designated registration number. This registry will serve as a centralized resource for providers to identify the correct plan or issuer and determine whether coverage is subject to State law, an All-Payer Model Agreement, or the Federal IDR process.

Background

45 CFR Part 149 Subpart F details the Federal IDR process under which nonparticipating providers, emergency facilities, and air ambulance service providers (*i.e.*, out-of-network entities) and group health plans and health insurance issuers may resolve certain disputes regarding out-of-network rates. Under this process, an “IDR entity” (*i.e.*, a third-party neutral certified by the relevant governmental agencies) determines the amount of payment under the plan or coverage for an item or service furnished by the provider or facility. The IDR process generally involves initiation, selection of the IDR entity, and determination of items, services, and payment amounts after a period of negotiation between the parties.

As discussed above, the initial deployment of this Federal IDR process resulted in unanticipated outcomes. The following summarizes the pertinent changes to the relevant rules and regulations associated with the Federal IDR process within the No Surprises Act.

Registration Requirement for Plans and Issuers

To address the transparency and information gaps under the original rules, the Final Rule establishes a new IDR registry that requires self-insured group health plans, Federal Employees Health Benefits (“FEHB”) Program carriers, and health insurance issuers to register and obtain a designated registration number. Third party administrators or service providers may engage in registration activities on behalf of plans and issuers; however, the plan or issuer remains ultimately responsible for registration, and failure to register constitutes a violation of the rules.

Entities required to register must provide the following information:

- Legal business name of the plan, FEHB carrier, or issuer (and plan sponsor, if applicable).
- Entity type: whether ERISA self-insured plan, FEHB carrier,

individual/group market issuer, self-insured non-Federal governmental plan, or self-insured church plan.

- State(s) where coverage is offered or licensed (for issuers and non-Federal governmental plans).
- Opt-in elections: States where the plan has elected to opt in to specified State law or All-Payer Model Agreement (for plans not otherwise subject to State law, including church plans, non-Federal governmental plans, and FEHB plans adopting such terms).
- Contact information (phone and email) for initiating open negotiation and the Federal IDR process.
- Identifiers: HIOS identifier (if available), EIN and plan number (for self-insured plans), or contract number(s) and plan code(s) (for FEHB carriers).
- Additional information as specified by the Secretary (or OPM for FEHB carriers) for identifying the plan/issuer and determining out-of-network payment rates.
- Additional fee collection information as specified by the Secretary (or OPM for FEHB carriers).

The information above must be certified annually and any changes must be reported within 30 calendar days.

Notably, registration must be completed by the later of the 90 business days after either (1) the Departments issue guidance announcing the registry is available or (2) the date the entity begins offering coverage or a plan subject to the IDR process.

Fee Changes

Under the Final Rule, the timing, amount, and allocation of Federal IDR process fees are revised. Parties are required to pay the certified IDR entity fee only after the certified IDR entity has been finally selected and the dispute has been determined eligible for the Federal IDR process, with payment due no later than the date the party submits its offer. A party that fails to timely pay either the certified IDR entity fee or the administrative fee will have its offer treated as not received, although the party remains liable for the unpaid fee.

More detailed allocation rules also apply:

- After a payment determination, the non-prevailing party bears the certified IDR entity fee and the prevailing party's fee is returned.
- In batched disputes where the parties prevail in equal numbers of determinations, the fee is split evenly.
- If the parties settle or withdraw after eligibility is determined, the certified IDR entity generally returns half of each party's fee, while settlements or withdrawals before an eligibility determination generally result in a full refund of each party's certified IDR entity fee.

Finally, the rule lowers the amount from \$115 per party per dispute for disputes initiated from January 22, 2024, through June 10, 2026, to \$15

per party per dispute for disputes initiated on or after June 11, 2026.

Open Negotiation Process Reforms

The open negotiation process under 45 CFR § 149.510(b)(1) is significantly formalized. Although parties still have 30 business days after the provider, facility, or air ambulance provider receives an initial payment or denial notice to initiate open negotiation, the initiating party must now submit a written open negotiation notice to both the other party and the Secretary. The 30-business-day negotiation period does not begin until the notice and required remittance advice documentation are submitted to the other party and the Secretary.

The content requirements for the notices are also substantially expanded. The open negotiation notice must now include 12 different elements specified at 45 CFR § 149.510(b)(1)(ii). Among other things, these include: the plan or issuer's Federal IDR registration number (or an attestation that it was not included on the remittance advice); detailed claim and service information (e.g., date the item or service was furnished, type of item or service, whether emergency, non-emergency, or air ambulance, and whether professional or facility-based); initial payment amount; qualifying payment amount ("QPA"); an offer of an out-of-network rate for each item or service; and identification of whether the party requesting the open negotiation was nonparticipating.

A new mandatory response process is also established: the party receiving the open negotiation notice must provide a written response and supporting documentation no later than the 15th business day of the open negotiation period. This response also has specific content requirements. The new response notice functions as an issue-spotting and documentation tool, requiring the responding party to confirm or correct payment and QPA information, identify any inaccuracies, state whether the item or service is subject to the Federal IDR process, and provide supporting documentation where appropriate.

IDR Initiation and Response Requirements

Basic timing for initiating the Federal IDR process is preserved, but the information that must accompany initiation is substantially expanded. If the parties do not agree on an out-of-network rate by the end of the open negotiation period, either party may initiate the Federal IDR process during the 4-business-day period beginning on the first business day after the open negotiation period ends.

Similar to the open negotiation process described above, the Final Rule now requires the initiating party to submit the notice of IDR initiation to both the non-initiating party and the Secretary and to include detailed content within the notice. The notice must be provided through the Federal IDR portal using the Secretary's standard form and must include content similar (but not identical) to the open negotiation notice. Importantly, the initiation notice must include an attestation that the item or service is eligible for the Federal IDR process and the basis for that attestation.

The response to the initiation notice must be provided within 3 business

days after IDR initiation. The response must confirm or correct core information from the initiating notice (e.g., initial payment amount, QPA, cost-sharing amount, remittance advice, and any other disputed facts). The response may also dispute or confirm the eligibility of the item or service for the Federal IDR process.

The detailed requirements under these new rules emphasize the intent to surface eligibility disputes and objections earlier in the process to avoid the problems created by the initial rules while also creating a more standardized record for the IDR process.

Selection of IDR Entity; Withdrawals

The process for selecting the certified IDR entity is also revised, with new rules formalizing when that selection becomes effective. Under the new process, the non-initiating party must agree or object to the initiating party's preferred certified IDR entity within 3 business days after the IDR initiation through the notice of IDR initiation response. If the non-initiating party agrees (or fails to respond), the initiating party's preferred certified IDR entity is deemed jointly selected on the third business day after initiation. If the non-initiating party objects and identifies an alternative preferred IDR entity, the initiating party may agree or object through a notice of certified IDR entity selection. Detailed timing rules establish when an alternative entity is deemed selected and when the parties are treated as having failed to jointly select an entity (e.g., where the Secretary intervenes).

Importantly, the Final Rule distinguishes between preliminary and final selection of the IDR entity. The IDR entity selection is finalized only after it attests that it satisfies applicable conflict-of-interest requirements and the Secretary notifies the parties of the final selection.

Once final selection occurs, the IDR entity has 5 business days to determine whether the item or service is eligible for the Federal IDR process based on the notices and information provided. If an item or service is ineligible, the dispute closes; in a batched dispute (discussed below), only eligible items or services continue through the process.

Formal withdrawal pathways are also added, including: (1) mutual withdrawal; (2) deemed withdrawal due to non-responsiveness within 5 business days; and (3) withdrawal where the IDR entity cannot make an eligibility or payment determination because both parties are nonresponsive.

Batching Items and Services; Bundled Payment Arrangements

The original rules only allowed batching where items or services were billed by the same provider or facility, payable by the same plan or issuer, furnished within the applicable time period, and were "same or similar" because they were billed under the same service code or a comparable code.

While the same-provider/facility and timing requirements are retained and

the same plan or issuer tests are clarified, the Final Rule notably:

- adds a hard cap of 50 qualified IDR items and services per batched payment determination.
- replaces the “same or similar item or services” test with a broader “treatment of a similar condition” standard.

Specifically for the new “treatment of a similar condition” requirement, the items and services may be batched if they fall into one of three categories:

- They were furnished to a single patient during a single patient encounter and billed on the same claim form.
- They were furnished to one or more patients and billed under the same service code or comparable code.
- For anesthesiology, radiology, pathology, and laboratory services, they were billed under service codes within the same Category I CPT code range (as specified in Secretary guidance).

Additionally, “bundled payment arrangements” (now defined at 45 CFR § 149.30) may be submitted and considered as a single payment determination with a single determination fee.

Payment Determination

The payment determination stage is refined to account for the new IDR entity selection and eligibility-review framework. Offers are now due 10 business days after the IDR entity's final selection, and the IDR entity must issue its payment determination within 30 business days after the final selection. Where the Secretary determines that certain extenuating circumstances apply, those deadlines instead run from the date the items or services are determined eligible for the Federal IDR process.

The core requirement is preserved that the IDR entity must select the offer that best represents the value of the qualified IDR item or service, considering the QPA and other permitted statutory factors while excluding factors such as usual and customary charges, billed charges, and public payer rates.

Express prevailing-party rules for fee allocation are also added, including special treatment for batched determinations. Additionally, the suspension period for subsequent IDR requests was revised: single determinations remain subject to a 90-calendar-day suspension, while batched determinations are subject to a shorter 30-business-day suspension for the same items or services.

Extenuating Circumstances

The circumstances under which Federal IDR deadlines may be extended are broadened. Existing rules allowed extensions for dispute-specific circumstances beyond the parties' control or for good cause, but the Final Rule expressly permits either party or the certified IDR entity to request an extension through the Federal IDR portal and adds a new category for system-wide delays.

The Secretary may now extend timeframes when the parties or certified IDR entity cannot meet deadlines because of systematic issues, such as an unforeseen volume of disputes or Federal IDR portal failures, and must post public notice of any such extension. The Final Rule also clarifies how later deadlines shift when an extension is granted: if the eligibility-determination period is extended, the deadlines for submitting offers and issuing the payment determination run from the date eligibility is determined; if another Federal IDR timeframe is extended, subsequent deadlines run from completion of the process step for which the extension was granted.

Mandated Use of Certain Codes

As noted above, the Departments identified certain communication gaps between plans or issuers and providers that contributed to disputes in the IDR process. To address this, the Final Rule establishes a new regulation at 45 CFR § 149.100 requiring plans and issuers to use standardized CARCs and RARCs. CARCs and RARCs must be provided on all remittance advice sent to entities that lack a contractual relationship with a plan or issuer and must indicate whether a claim is or is not subject to the No Surprises Act. Notably, this requirement applies to items and services both subject to and not subject to the No Surprises Act's balance billing protections, ensuring that providers and facilities can identify claims that are ineligible for the Federal IDR process.

Mandated Information Sharing Regarding Qualifying Payment Amount (“QPA”)

Prior to the Final Rule, if the recognized amount for an item or service is the QPA, plans and issuers must make certain disclosures about the QPA with each initial payment or notice of denial (among other information if requested). The disclosure requirements are now expanded. Specifically, where the recognized amount for an item or service is the QPA or the amount billed by the provider or facility, the plan or issuer must provide the following in addition to the prior disclosures:

- a statement that if the provider, facility, or provider of air ambulance services desires to initiate an open negotiation period for determining the out-of-network rate, the party must (1) contact the appropriate person to initiate it within 30 business days of receiving the initial payment or notice of denial, and (2) notify the Secretary.
- a statement that if the open negotiation period does not result in an agreement, the party may initiate the Federal IDR process within 4 business days after the end of the 30-business-day open negotiation period.
- the legal business name of the self-insured group health plan, FEHB Program carrier, or issuer; the legal business name of the self-insured group health plan sponsor (if applicable); and the IDR registration number assigned to the plan or issuer.

Applicability Dates

The following table summarizes the applicability dates of the relevant

changes discussed above.

Provision/Topic	Applicability Date
Revised definition of “batched IDR items and services” in § 149.510(a)(2)(i)	Disputes with open negotiation periods beginning on or after November 1, 2026
Open negotiation and IDR initiation procedures in § 149.510(b)	Disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that supporting functionality is available
Modifications to certified IDR entity selection in § 149.510(c)(1)	Disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that supporting functionality is available
Modifications to continued negotiations and certain withdrawal provisions in § 149.510(c)(3)(i), (c)(3)(ii)(C), and (c)(3)(ii)(D)	November 1, 2026
Amendments to eligibility review, mutual/initiating-party withdrawal, and batched/bundled rules in § 149.510(c)(2), (c)(3)(ii)(A)–(B), and (c)(4)	Disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that supporting functionality is available
Modifications to offer deadlines, payment determination deadlines, suspension of subsequent IDR requests, and subsequent submissions in § 149.510(c)(5)(i), (ii), and (vii)(B)–(C)	Disputes with open negotiation periods beginning 90 calendar days after the Departments issue guidance announcing that supporting functionality is available
Certified IDR entity fee provisions in § 149.510(d)(1)	Disputes initiated on or after August 3, 2026
Administrative fee amount in § 149.510(d)(2)(ii)	Disputes initiated on or after June 11, 2026
Failure to pay administrative fee in § 149.510(d)(2)(iii)	August 3, 2026

Procedures to retain the certified IDR entity fee in § 149.510(e)(2)(ix)	August 3, 2026
Modifications to extenuating-circumstances extensions in § 149.510(g)	November 1, 2026

¹ <https://www.cms.gov/nosurprises/policies-and-resources/reports>

² *Id.*

³ 91 Fed. Reg. 33900 (June 4, 2026).

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.