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Client Alert: Navigating the Latest Overhaul of the No Surprises Act's Independent Dispute Resolution Process

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The U.S. Departments of Health and Human Services, Labor, and Treasury (the Departments) and the Office of Personnel Management jointly issued a final rule restructuring the independent dispute resolution (IDR) process under the No Surprises Act (NSA). The NSA protects patients from unexpected medical bills and includes an IDR process to resolve certain types of payment disputes between payers and providers. The final rule streamlines the IDR process after the system logged more than five million disputes since its April 2022 launch—far exceeding the amount regulators originally projected. The rule will take effect 60 days after its publication in the Federal Register, unless specific provisions state otherwise.

Key Changes to the IDR Process Include:

Reduction of Administrative Fees

- Decreasing the per-dispute administrative fee—the non-refundable fee that parties must pay to participate in the IDR process—from $115 to $15 per party. This reduction will take effect five business days after the rule's publication in the Federal Register.
- Requiring that all IDR fees—including the administrative fee and certified IDR entity fee—be paid by the time a party's offer is due. If a party fails to pay the fees by this deadline, the certified IDR entity will not consider the party's offer. However, a party will remain responsible for the IDR fees.

Establishment of the IDR Gateway

- Establishes the Federal IDR portal as the sole platform for providers to conduct open negotiation, replacing the previous multi-platform process. Now, users can initiate disputes, track case status, and manage activity from one portal. This will roll out in phases over the course of 2026, with additional features, including in-portal negotiation tools, expected over time.

Federal Payer Registry

- Requires payers subject to the IDR process to register with the Departments and receive a unique registration number. This registry will help providers identify the correct payer and plan type when initiating disputes and enables certified IDR entities to resolve eligibility questions more quickly.
- Requires payers to register 90 business days after the Centers for Medicare and Medicaid Services (CMS) announces the registry platform is live.

Expanded and Capped Batching Rules

- Broadens the circumstances under which multiple claims can be grouped into a single "batched" dispute to include the following:
- Claims that involve a single patient on the same or consecutive dates of service billed together;
- Claims that share the same service code or comparable code under a different procedural code system; and
- Anesthesiology, radiology, pathology, and laboratory claims that fall within the same CPT code section.
- Caps batched disputes at 50 line items per dispute to allow certified IDR entities to process cases in a timely and financially sustainable manner.

Formalized Open Negotiation Period

- Formalizes the 30)business-day open negotiation period that precedes IDR filing.
- Requires parties to initiate open negotiation through the federal portal with the opposing party and submit a formal response by the 15th business day of the 30-business-day open negotiation period.
- Mandates that certified IDR entities complete eligibility determinations within five business days of selection.

Key Takeaways & Next Steps

The final rule allows providers to initiate open negotiations through the Federal IDR portal and follow more standardized procedures before filing IDR disputes. These changes are intended to streamline the IDR process and reduce its previous administrative burdens.

Providers should evaluate and update their internal procedures for managing payer disputes under the NSA to ensure compliance with the upcoming changes to the IDR process. We recommend that providers consult with legal counsel to assess how the final rule interacts with any pending disputes, litigation exposure, or payer contractual arrangements.

Please reach out to Daphne Kackloudis, Jordan Burdick, or Kate Crawford if you have questions about the final rule.

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