

Request for Extension of Federal IDR Process Time Periods Due to Extenuating Circumstances

Instructions

The Departments of Health and Human Services, Labor, and the Treasury (the Departments) and the Office of Personnel Management (OPM) have issued interim final rules establishing a Federal independent dispute resolution process (Federal IDR process) to permit group health plans and health insurance issuers offering group or individual health insurance coverage, Federal Employees Health Benefits (FEHB) carriers, and nonparticipating providers, facilities, and providers of air ambulance services to determine the out-of-network rate for items or services that are emergency services, nonemergency services furnished by nonparticipating providers at participating facilities, and air ambulance services from nonparticipating providers of air ambulance services. These disputes are resolved by a certified IDR entity.

The Federal IDR process includes specific time periods during which the parties are required to take certain actions. Specifically, prior to accessing the Federal IDR process to determine the out-of-network rate for a qualified IDR item or service, the disputing parties must engage in a 30-business-day open negotiation period. A party to the dispute initiates this open negotiation period by providing an open negotiation notice to the other party within 30 business days of the receipt of an initial payment or notice of denial of payment from a plan, issuer, or FEHB carrier. In the event the parties cannot come to an agreement after exhausting the 30-business-day open negotiation period, either party may initiate the Federal IDR process by submitting a Notice of IDR Initiation to the other party and to the Departments during the 4-business-day period beginning on the 31st business day after the start of the open negotiation period.

In the event the parties have exhausted the open negotiation period and one of the parties has initiated the Federal IDR process, the parties may jointly select a certified IDR entity no later than 3 business days after the Departments' receipt of the Notice of IDR Initiation. If the disputing party in receipt of the Notice of IDR Initiation fails to object within 3 business days of the date of initiation of the Federal IDR process, 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. If the party in receipt of the Notice of IDR Initiation objects, that party must timely notify the initiating party of the objection, including an explanation of the reason for objecting, and propose an alternative certified IDR entity. The initiating party must then agree or object to the alternative certified IDR entity. In order to jointly select a certified IDR entity, the plan, issuer, or FEHB carrier and the nonparticipating provider, nonparticipating provider of air ambulance services, or nonparticipating emergency facility must jointly agree on a certified IDR entity not later than 3 business days after the date of initiation of the Federal IDR process. If both parties select a certified IDR entity and agree or fail to agree upon a certified IDR entity within the specified timeframe, the initiating party must notify the Departments by electronically submitting the notice of the certified IDR entity selection or failure

to select (as applicable), no later than 1 business day after the end of the 3-business-day period (or, in other words, 4 business days after the date of initiation of the Federal IDR process). Notice of the certified IDR entity selection must be provided to the Departments through the Federal IDR portal.

Not later than 10 business days after the date of selection of the certified IDR entity, each party must submit to the certified IDR entity an offer for a payment amount for the qualified IDR item or service in dispute. In addition, at that same time, each party must submit the certified IDR entity fee to the certified IDR entity. Not later than 30 business days after the selection of the certified IDR entity, the certified IDR entity must select one of the submitted offers, notify the parties of the selection of the offer, and provide a written decision. The amount of the offer selected by the certified IDR entity (less the sum of the initial payment and any cost sharing paid or owed by the participant or beneficiary) must be paid directly to the provider or facility not later than 30 calendar days after the determination by the certified IDR entity. If the offer selected by the certified IDR entity is less than the sum of the initial payment and any cost sharing paid by the participant or beneficiary, the provider, the amount of the difference must be paid to the plan or issuer not later than 30 calendar days after the determination by the certified IDR entity.

Although the Federal IDR process provides for specific time periods which must be adhered to, a party may file for the time periods to be extended (excluding the timing of payment) in the case of extenuating circumstances at the Departments' discretion on a case-by-case basis if the extension is necessary to address delays due to matters beyond the control of the parties or for good cause. An extension may be necessary if, for example, a natural disaster impedes efforts by plans, issuers, FEHB carriers, providers, providers of air ambulance services, and facilities to comply with the terms of the interim final rules. Additionally, in order for the extension to be granted, the parties must attest that prompt action will be taken to ensure that the determination is made as soon as administratively practicable under the circumstances.

NOTE: Parties do *not* need to include this instruction page with the request.

Paperwork Reduction Act Statement

According to the Paperwork Reduction Act of 1995 (Pub. L. 104-13) (PRA), no persons are required to respond to a collection of information unless such collection displays a valid Office of Management and Budget (OMB) control number. The Departments and OPM note that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512.

The public reporting burden for this voluntary collection of information is estimated to be 15 minutes per response, including time for reviewing general information about requesting assistance, gathering information, completing and reviewing the collection of information, and

uploading attachments if applicable. Interested parties are encouraged to send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employee Benefits Security Administration, Office of Regulations and Interpretations, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email ebesa.opr@dol.gov and reference the OMB Control Number XXXX-XXXX. Note: Please do not return the completed request for assistance to this address.

Request for Extension of Federal IDR Process Time Period
Due to Extenuating Circumstances

[Date]

I am submitting this request that the Departments of Health and Human Services, Labor, and the Treasury (the Departments) and the Office of Personnel Management (OPM) extend certain Federal IDR process time period(s) due to extenuating circumstances, pursuant to Internal Revenue Code section 9816(c)(9), Employee Retirement Income Security Act section 716(c)(9), and Public Health Service Act section 2799A-1(c)(9).

INFORMATION TO BE COMPLETED BY REQUESTOR

1. Identity of the requestor:

2. Identify the time period(s) for which you are seeking an extension due to extenuating circumstances (extension of the time period for payment, including, if applicable, payments to the provider, facility or provider of air ambulance services is not permitted):

3. Identify the extenuating circumstance(s) that are matters beyond your control or the delay(s) for good cause for which you are seeking the extension(s):

4. Identify any documentation to support the reason(s) outlined in this request (please attach all relevant documentation):

5. ATTESTATION:

___ I, an authorized signatory for the undersigned requesting party/ies, attest that prompt action will be taken to ensure that the payment determination delayed under this extension will be made as soon as administratively practicable.

Requestor's Signature:

Print Name: _____ **Date:** _____

Organization (if applicable): _____

Email address: _____ **Phone number:** _____