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Federal Independent Dispute Resolution (IDR) Public Use File and Federal IDR Supplemental Tables

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and updated. Data in the Federal IDR portal reflect data submitted by disputing parties and certified IDR entities. CMS does not guarantee the accuracy of all records and all fields.

***Qualifying Payment Amount (QPA) disclaimer*:** The QPA in the Federal IDR PUF is the QPA amount captured in the Federal IDR portal when the dispute was closed and was not necessarily verified by the health plan or issuer. The QPA for each item and service was collected from the initiating party upon dispute initiation. The initiating party must report the QPA for each item or service provided with the initial payment or notice of denial of payment.[1] In most disputes the initiating party was a provider, facility, or air ambulance services provider. If the QPA was not provided by the health plan or issuer on the initial payment or notice of denial of payment, initiating parties who were a provider, facility, or air ambulance services provider might have submitted the allowed amount[2] or a different value in place of the QPA. For example, some initiating parties might have reported the QPA as a nominal figure of less than a dollar when they did not know the QPA in order to move forward with the Federal IDR process. In some cases, the value submitted in place of the QPA might have represented the unit price rather than the full cost of the service.[3] For example, some initiating parties might have submitted the base unit price for anesthesia or the per mileage rate for an air ambulance service to which the health plan's or issuer's multiplier would be applied. The certified IDR entity may not have necessarily updated the value submitted for the QPA by applying the health plan's or issuer's multiplier, particularly if the multiplier was unclear or the health plan or issuer did not otherwise clarify the QPA amount.

If the QPA provided by the initiating party was incorrect and the certified IDR entity received a corrected QPA from the health plan or issuer, the certified IDR entity could have considered the corrected QPA information in its final determination but might not have updated the QPA amount in the Federal IDR portal. QPA amounts were not necessarily updated or confirmed by the health plan or issuer, particularly if the health plan or issuer did not respond to outreach or did not submit an offer in the dispute. If the health plan or issuer did not submit an offer or pay their fees, they also would not have submitted an updated QPA to the certified IDR entity, and the certified IDR entity would only have considered the information provided by the initiating party.

On August 24, 2023, the U.S. District Court for the Eastern District of Texas (the district court) issued an opinion and order in *Texas Medical Association, et al. v. United States Department of Health and Human Services*, Case No. 6:22-cv-450-JDK (TMA III), vacating certain portions of 86 Fed. Reg. 36,872, 45 CFR 149.130 and 149.140, 26 CFR 54.9816-6T and 54.9817-1T, 29 CFR 2590.716-6 and 2590.717-1, and 5 CFR 890.114(a), and certain portions of several guidance documents from the Departments of Health and Human Services, Labor, and the Treasury (the Departments). The vacated provisions include certain directions to group health plans and issuers of group and individual health insurance on how to calculate QPAs for covered items and services.[4] On October 30, 2024, the Fifth Circuit issued an opinion and order in TMA III, which partially reversed the district court's decision with respect to certain provisions in the

[1] Health plans and issuers are required to provide a QPA for all items and services subject to the No Surprises Act with each initial payment or notice of denial of payment.

[2] The allowed amount is the maximum payment the plan will pay for a covered health care service.

[3] Special rules apply when calculating the QPA for items or services for which a plan or issuer generally determines the reimbursement level for the same or similar items or services by multiplying the contracted rate by another unit, such as time or mileage. The QPA for unit-based items and services is calculated by determining the median contracted rate for the item or service, indexing that median amount in accordance with the otherwise applicable rules regarding indexing, and then applying the pertinent multipliers.

[4] CMS, FAQs about Consolidated Appropriations Act, 2021 Implementation Part 62 (October 6, 2023), https://www.cms.gov/files/document/faqs-part-62.pdf

July 2021 interim final rules and implementing guidance under the No Surprises Act related to the methodology for calculating the QPA that had been vacated by the district court in TMA III.[5] As a result of the court rulings, QPAs may have been calculated by health plans and issuers in accordance with the methodology in place before the opinion and order in TMA III. Please note that the QPAs reported in each quarterly PUF are for disputes that were closed in the quarter, regardless of the quarter the dispute was initiated.

***Offer Amount as Percentage of QPA disclaimer*:** An offer amount as a percentage of a QPA is calculated by dividing the offer amount by the QPA amount captured in the Federal IDR portal. As discussed above, the QPA amount captured in the Federal IDR portal was not necessarily confirmed by the health plan or issuer. In some cases, the value reported for the QPA could reflect a unit price rather than the full cost of a service, particularly for unit-based services like anesthesia and air ambulance services. In these cases, the value for the QPA would reflect a unit price and the offer would reflect the full cost of the service. This may lead to an offer amount as a percentage of QPA being incorrect and inappropriately high. Similarly, if an initiating party reported a nominal figure in place of the QPA, this may lead to the offer amount as a percent of QPA being incorrect and inappropriately high.

Length of Time to Make Determination disclaimer: The length of time to make a determination in the Federal IDR PUF represents the number of business days from the date a dispute was assigned to a certified IDR entity until the date the determination was sent to parties and the dispute was closed. This does not necessarily reflect whether the certified IDR entity made a payment determination within 30-business-days after the certified IDR entity was selected, as required. This is because a dispute is assigned to a certified IDR entity before the certified IDR entity selection is finalized, which occurs when the certified IDR entity attests there is no conflict of interest.[6] Additionally, for many disputes, the

[5] Please refer to FAQs about Consolidated Appropriations Act, 2021 Implementation Part 69, available at https://www.cms.gov/files/document/faqs-part-69.pdf.

[6] 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 must determine if the Federal IDR Process is applicable, at which point the certified IDR entity selection is finalized.

Federal IDR timelines were tolled or an extension was granted,[7] or certified IDR entities were instructed by the Departments to pause work and await guidance following a court ruling.[8, 9]

Geographic Region disclaimer: The geographic region for purposes of calculating the QPA is selected by the health plan or issuer from a dropdown list of Metropolitan Statistical Areas (MSAs) on the Notice of Offer webform. At the time this report was generated, this dropdown list did not include alternative definitions of geographic regions used for air ambulance services or other scenarios where a plan or issuer does not have sufficient information to calculate a median contracted rate for the MSA. As a result, the geographic region in the Federal IDR PUF may not necessarily reflect the geographic region used to calculate the QPA if the health plan or issuer did not use an MSA. For example, if the health plan or issuer does not have sufficient information to calculate a QPA for the MSA, geographic regions are

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[7] Certain time periods in the Federal IDR Process may be extended in the case of extenuating circumstances at the Departments' discretion. These include timelines for the certified IDR entity to determine eligibility or for disputing parties to submit offers. For example, the Federal IDR timelines are tolled when disputes are put in an 'on hold' or 'outreach in progress' status. If any required disclosures are not provided upon initiation of the Federal IDR process and the certified IDR entity needs additional information to determine a dispute's eligibility for the Federal IDR process, the certified IDR entity puts the dispute in 'outreach in progress' status and requests that the missing information from the disputing parties be submitted within five business days. The length of time to make a payment determination in the PUF includes any business days when timelines were tolled, or extensions were granted. CMS has instructed certified IDR entities to grant extensions to disputing parties to account for multiple circumstances that could hinder parties' ability to complete activities within original deadlines. Details regarding these extensions and other important information that can impact the length of time to make a determination can be viewed here: https://www.cms.gov/nosurprises/notices.

[8] On February 6, 2023, the U.S. District Court for the Eastern District of Texas (district court) issued a judgment and order in *Tex. Med. Ass'n, et al. v. U.S. Dep't of Health and Human Servs.*, Case No. 6:22-cv-372 (*TMA II*). As a result of the *TMA II* decision, the Departments instructed certified IDR entities not to issue new payment determinations until receiving further guidance from the Departments that was updated to be consistent with the *TMA II* decision. Certified IDR entities were instructed to resume processing payment determinations on February 27, 2023, for disputes involving items or services furnished before October 25, 2022. On March 17, 2023, certified IDR entities were instructed to resume making all payment determinations, including for items or services furnished on or after October 25, 2022.

[9] On August 3, 2023, the district court issued an opinion and order in *Tex. Med. Ass'n, et al. v. U.S. Dep't of Health and Human Servs.*, Case No. 6:23-cv-59-JDK (*TMA IV*). As a result of *TMA IV*, the Departments instructed certified IDR entities to pause all operations from August 3 to August 8, 2023, to ensure that operations were consistent with the *TMA IV* decision. On August 8, 2023, certified IDR entities were instructed to resume processing eligible batched disputes where the administrative fees had been paid (or the deadline for collecting fees had expired) before August 3, 2023. Subsequently on August 24, 2023, the district court issued an opinion and order in *Tex. Med. Ass'n, et al. v. U.S. Dep't of Health and Human Servs*, Case No. 6:22-cv-450-JDK (*TMA III*). In order to make changes necessary to comply with the court's opinions and orders in *TMA III* and *TMA IV*, the Departments suspended all Federal IDR process operations, effective August 25, 2023. Effective September 5, 2023, the Departments directed certified IDR entities to proceed with eligibility determinations for single and bundled disputes submitted on or before August 3, 2023. Effective September 21, 2023, the Departments directed certified IDR entities to resume processing all single and bundled disputes submitted on or before August 3, 2023. Effective October 6, 2023, the Departments reopened the Federal IDR portal for the initiation and processing of new non-air ambulance single and bundled disputes. On December 15, 2023, the Departments reopened the Federal IDR portal to process all dispute types.

defined according to alternative definitions.[10] The primary definition for geographic regions for air ambulance services is one region consisting of all MSAs in the state, or one region consisting of all other portions of the state.

Department of Health & Human Services 200 Independence Avenue, S.W. Washington, D.C. 20201

Toll Free Call Center: 1-877-696-6775
www.hhs.gov

Department of Labor
200 Constitution Ave., N.W.
Washington, DC 20210

1-866-4-USA-DOL / 1-866-487-2365
www.dol.gov

Department of the Treasury 1500 Pennsylvania Ave., N.W. Washington, D.C. 20220

General Information: (202) 622-2000
www.treasury.gov

[10] CMS, Qualifying Payment Amount Calculation Methodology (December 2021), https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAAQualifying-PaymentAmount-Calculation-Methodology.pdf