

Closures in the Independent Dispute Resolution Process

Key Differences Explained

Types of Closures

- Not Eligible
- Withdrawals/ Settlements
- Determination Reached
 - Arbitrator Determinations
 - Administrative Closures
 - Default Determinations

Not Eligible

A dispute can be considered not eligible to proceed in the IDR process for the following reasons;

- Exceeded four-day timeline;
 - *CMS now filters untimely IDR initiations by giving the initiating party an error message when submitting a dispute late, which does not allow them to proceed.*
- Incorrectly batched;
- Incorrectly bundled;
- Item or service not covered by plan;
- Item or service not NSA-eligible*;
- Notice of initiation not submitted;
- Open negotiation not complete;
- Open negotiation not initiated;
- Plan not subject to NSA;
- Prior to the applicable policy year;
- Cooling off period not completed; or
- Other

* *The Federal IDR process does not apply to items and services payable by Medicare, Medicaid, the Children's Health Insurance Program, or TRICARE. The Federal IDR*

Process also does not apply in instances where a specified state law (SSL) or All-Payer Model Agreement (APMA) under Section 1115A of the Social Security Act provides a method for determining the total OON amount payable under a group health plan or group or individual health insurance coverage.

REFUND PROCESS FOR NOT ELIGIBLE CLOSURES

When a dispute is considered not eligible, the entirety of the entity fees are refunded, but admin fees are kept.

Withdrawals/ Settlements

To withdraw a dispute both parties must agree to the withdrawal. If a dispute is withdrawn and the opposing party disagrees, the entity will be required to reopen the dispute. Disputes are requested to be withdrawn for a number of reasons including;

- The initiating parties realizes the submitted claims are not eligible, prior to the entity's eligibility determination.
- A settlement was reached **prior** to arbitration.
 - If the withdrawal request is made **after** an arbitrator has already rendered a decision it will not be granted.
- The initiating party made clerical errors on their initiation form.
- Other

These requests need to be sent to the entity assigned to the dispute.

REFUND PROCESS FOR WITHDRAWALS/ SETTLEMENTS

"If the parties negotiate an OON rate before a determination is made, or if both parties agree to withdraw the dispute, the

certified IDR entity will **return half of each party's payment** for the certified IDR entity fee within 30 business days following the date of settlement.* **The [CMS] administrative fees are not refunded.**

*Unless directed otherwise by both parties to distribute the total amount of the refund in different shares (see Section 5)

Determinations

ARBITRATED DETERMINATION

A dispute is sent to the arbitrator to render a determination when the claims involved are eligible and payment and offers from each party have been received.

Not later than 30 business days after the selection of the certified IDR entity is finalized, the certified IDR entity must select one of the offers submitted by the disputing parties to be the OON rate for the qualified IDR item or service. The certified IDR entity must select one of the offers submitted by the disputing parties. The certified IDR entity's determination is legally binding unless there is fraud or evidence of intentional misrepresentation of material facts to the certified IDR entity by any party regarding the claim.

DEFAULTED DETERMINATION

- A default determination will be rendered if;
 - One party did not submit payment, this includes underpayments.
 - One party did not submit an offer, this includes offer submissions of \$0.
 - One party did not submit both offer and payment.

6.1.6 Consequences of a Failure to Submit an Offer

If, by the deadline for the parties to submit offers, one party has not submitted an offer utilizing the Federal IDR portal and the Notice of Offer web form the certified IDR entity provided, the certified IDR entity will select the other party's offer as the final payment amount.

Each party must pay the certified IDR entity fee and the administrative fee when submitting its offer (unless the administrative fee has already been paid). If the certified IDR entity fee and administrative fee are not collected from a party, the certified IDR entity will not accept the non-paying party's offer.

ADMINISTRATIVELY CLOSED

- A dispute is administratively closed when an entity determines a dispute to be eligible, requests payment and offer and;
 - Neither party submitted an offer.
 - Neither party submitted payment.

REFUND PROCESS FOR DETERMINATIONS

Arbitrated Determination

The prevailing party is fully refunded their entity fee, and the non-prevailing parties fees are kept by the entity.

The non-prevailing party is ultimately responsible for the certified IDR entity fee, which is retained by the certified IDR entity for the services it performed. The certified IDR entity fee that was paid by the prevailing party will be returned to the prevailing party by the certified IDR entity within 30 business days of the certified IDR entity's determination.

DEFAULTED DETERMINATION

The prevailing party is fully refunded their entity fee, and the non-prevailing parties fees are kept by the entity.

The non-prevailing party is ultimately responsible for the certified IDR entity fee, which is retained by the certified IDR entity for the services it performed. The certified IDR entity fee that was paid by the prevailing party will be returned to the prevailing party by the certified IDR entity within 30 business days of the certified IDR entity's determination.

ADMINISTRATIVELY CLOSED

Since there is no prevailing party, FHAS keeps half of any entity fees paid (similar to a withdrawal).

Partner with FHAS

FHAS is a certified Independent Dispute Resolution Entity (IDRE) under the No Surprises Act. We provide impartial and efficient resolution of payment disputes between healthcare providers and health insurance plans for out-of-network services.

Contact us online, at 570-779-5122, or by email at IDRE@fhas.com

