

## Chart for Determining the Applicability for the Federal Independent Dispute Resolution (IDR) Process

The No Surprises Act establishes a Federal Independent Dispute Resolution (IDR) process that providers, emergency facilities, and providers of air ambulance services and group health plans and health insurance issuers in the group and individual market, as well as Federal Employees Health (FEHB) Carriers, may use following the end of an unsuccessful open negotiation period to determine the out-of-network (OON) rate for certain covered services. The Federal IDR process may be used to determine the OON rate for “qualified IDR items or services,” which include:

- Emergency services (including post-stabilization services)<sup>1</sup>;
- Nonemergency items and services furnished by OON providers at certain in-network health care facilities<sup>2</sup>, and
- Air ambulance services furnished by OON providers of air ambulance services.

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 cases where a specified state law or All-Payer Model Agreement under Section 1115A of the Social Security Act provides a method for determining the total amount payable under a group health plan or group or individual health insurance coverage with respect to the OON items and services furnished by the provider or facility.

The Federal IDR Process will apply to self-insured plans sponsored by private employers, private employee organizations, or both in all states, **except in** cases in which a self-insured plan has opted into a specified state law, in a state that permits these plans to opt in, or an All-Payer Model Agreement applies. Similarly, the Federal IDR Process will apply to health benefits plans offered under 5 U.S.C. 8902 in all states, **except in** cases where an Office of Personnel Management (OPM) contract with an FEHB Carrier includes terms that adopt the state process.

The chart below provides a high-level summary to assist in determining whether the Federal IDR process or a state law or All-Payer Model Agreement applies for determining the out-of-network rate. If your state is in the “Bifurcated Process” column you should review the state law or All-Payer Model Agreement and, if necessary, consult with the proper state authorities on whether the state or the Federal IDR process applies to the particular payment dispute at issue.

In instances where this document indicates that the Federal IDR process, or a state process, applies in that state, that process also applies to providers and facilities in that state. Also, where the plan or issuer and provider or facility are in different states, the Federal IDR process will apply.

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<sup>1</sup> See 26 CFR 54.9816-4T(c)(2); 29 CFR 2590.716-4(c)(2) and [45 CFR 149.110\(c\)\(2\)](#).

<sup>2</sup> See 26 CFR 54.9816-3T, 29 CFR 2590.716-3 and 45 CFR 149.30

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State Process*	Federal IDR Process	Bifurcated Process*
Alaska Georgia Maine Michigan	Alabama Arizona Arkansas District of Columbia Hawaii Idaho Indiana Iowa Kansas Kentucky Louisiana Massachusetts Minnesota Mississippi Montana North Carolina North Dakota Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Utah Vermont West Virginia Wisconsin Wyoming  American Samoa Guam Northern Mariana Islands Puerto Rico U. S. Virgin Islands	California Colorado Connecticut Delaware Florida Illinois Maryland Missouri Nebraska Nevada New Hampshire New Jersey New Mexico New York Ohio Texas Virginia Washington

**IMPORTANT NOTE:**

\*Self-insured plans sponsored by private employers, private employee organizations or public payers in these states that **have not** opted into the state process should use the Federal IDR process. Similarly, FEHB carriers that **do not** have contract terms with OPM to use a state process should also use the Federal IDR process.