

furnished to some individuals covered by plans in the individual market and others covered by plans in the large group market. In this situation, there likely would be two different QPAs for the certified IDR entity to consider—one QPA for the services furnished to individuals enrolled in individual market coverage, and one QPA for individuals with large group market coverage. When this is the case, the parties must provide the relevant information for each QPA, and the certified IDR entity must consider each QPA for each item or service separately. Note that items and services paid for by different self-insured group health plans are not allowed to be batched.

In the case of qualified IDR items or services that are billed by a provider, facility, or provider of air ambulance services as part of a bundled arrangement, or where a plan makes an initial payment as a bundled payment (or specifies that a denial of payment is made on a bundled payment basis), those qualified items or services may be submitted and considered as part of one payment determination by a certified IDR entity. Bundled payment arrangements are subject to the certified IDR entity fee and administrative fee for single determinations.

### **6.1.4 Submission of Additionally Requested Information**

The certified IDR entity may request additional information related to the parties' offers and must consider credible information submitted by either party to determine if it demonstrates that the QPA is materially different from the appropriate OON rate (unless the information relates to a factor that the certified IDR entity is prohibited from considering).

### **6.1.5 Consequences for Failure to Submit an Offer**

At the time at which offers from both parties should have been submitted, if one party has not submitted an offer, the certified IDR entity will accept the other party's offer.

## **6.2 Payment of Certified IDR Entity Fees**

### **6.2.1 Payment Allocations and Timelines for Payment**

Each party must pay the entire certified IDR entity fee to the certified IDR entity. The certified IDR entity fees are due when the party submits their offer. Unless previously paid (Section 5.8), administrative fees must also be paid by the time of offer submission.

### ***Responsibilities Related to Fees***

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The certified IDR entity must hold the certified IDR entity fees in a trust or escrow account until the certified IDR entity determines the OON rate, after which point the certified IDR entity must refund to the prevailing party the amount submitted for the certified IDR entity fee **within 30 business days** of making its determination.

The certified IDR entity **retains the non-prevailing party's certified IDR entity fee** as compensation for the certified IDR entity's services.

If the parties negotiate an OON rate before a determination is made, 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 determination, unless directed otherwise by both parties to distribute the total amount of the refund in different shares. (See Section 5.7)

**In the case of batched determinations**, the certified IDR entity may make different payment determinations for each qualified IDR item or service under dispute. In these cases, the party with the fewest determinations in its favor is considered the non-prevailing party and is responsible for paying the certified IDR entity fee. In the event each party prevails in an equal number of determinations, the certified IDR entity fee will be split evenly between the parties.

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### **6.2.2 IDR Fees Set in a Predetermined Range Specified by the Departments**

For the calendar year beginning January 1, 2022, certified IDR entities must charge a fixed certified IDR entity fee for single determinations within the range of \$200-\$500, unless otherwise approved by the Departments.

If a certified IDR entity chooses to charge a different fixed certified IDR entity fee for batched determinations, that fee must be within the range of \$268-\$670 for the calendar year beginning January 1, 2022, unless otherwise approved by the Departments.<sup>13</sup>

The fees will be updated in guidance issued by the Departments on an annual basis. For updated guidance, visit the [HHS No Surprises Act](#) page.

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<sup>13</sup> Calendar Year 2022 Fee Guidance For the Federal Independent Dispute Resolution Process Under The No Surprises Act, September 30, 2021: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Technical-Guidance-CY2022-Fee-Guidance-Federal-Independent-Dispute-Resolution-Process-NSA.pdf>.