

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

NEUROLOGICAL SURGERY  
PRACTICE OF LONG ISLAND PLLC,

*Plaintiff,*

v.

U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, *et al.*,

*Defendants.*

No. 1:23-cv-2977-BMC

**NOTICE OF RESUMPTION OF FULL IDR PROCESS OPERATIONS**

Defendants respectfully inform the Court that the Federal IDR portal resumed full operations on December 15, 2023, confirming that Plaintiff's motion for leave to file a second amended complaint and motion for a preliminary injunction are moot.

As Defendants previously explained, Plaintiff's proposed amendments were largely moot and futile when filed, as the temporary pause in IDR portal operations necessitated by the decisions in *TMA III* and *TMA IV* had already largely been lifted; the only operations that then remained paused concerned air ambulance disputes and batched disputes, neither of which Plaintiff had established any harm from. *See* Defs.' Opp'n at 13–14, ECF No. 37.

Since that time, the Departments have worked diligently to fully reopen the Federal IDR portal to all eligible disputes. On November 28, 2023, they released the No Surprises Act (NSA) Independent Dispute Resolution (IDR) Batching and Air Ambulance Frequently Asked Questions (FAQs)<sup>1</sup> and FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021

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<sup>1</sup> *See* CMS.gov, Federal Independent Dispute Resolution (IDR) Process Batching and Air Ambulance FAQs (November 2023), available at <https://www.cms.gov/files/document/faqs-batching-air-ambulance.pdf>.

Implementation Part 63 (FAQs Part 63)<sup>2</sup> to provide guidance in advance of the portal reopening for batched disputes and air ambulance disputes. On November 3, 2023, the Departments published in the Federal Register the Federal Independent Dispute Resolution Operations proposed rule, which outlined proposed updates to the Federal IDR process.<sup>3</sup> The proposed rule includes updates to the batching rules that, to the extent they become finalized, would supersede these FAQs when effective. And, most recently, on December 15, 2023, the Federal IDR portal reopened for batched disputes and air ambulance disputes. *See* CMS.gov, Payment disputes between providers and health plans (“On December 15, 2023, the Departments reopened the Federal IDR portal to process all dispute types, including previously initiated batched disputes, new batched disputes, and new single disputes involving air ambulance services.”), *available at* <https://www.cms.gov/nosurprises/help-resolve-payment-disputes/payment-disputes-between-providers-and-health-plans>.

Dated: December 15, 2023

Respectfully submitted,

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*/s/ Anna L. Deffebach*  
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<sup>2</sup> *See* CMS.gov, FAQs ABOUT AFFORDABLE CARE ACT AND CONSOLIDATED APPROPRIATIONS ACT, 2021 IMPLEMENTATION PART 63 (Nov. 28, 2023), *available at* <https://www.cms.gov/files/document/faqs-part-63.pdf>.

<sup>3</sup> *See Federal Independent Dispute Resolution Operations*, 88 Fed. Reg. 75744 (Nov. 3, 2023).

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