

#### § 478.44

(4) An office of the Railroad Retirement Board, in the case of a beneficiary who is a railroad retiree.

(b) *Time limit for submitting a request for a hearing.* (1) The request for a hearing must be filed within 60 days of receipt of the notice of the QIO reconsidered determination, unless the time is extended for good cause as provided in § 473.22.

(2) The date of receipt of the notice of the reconsidered determination is presumed to be five days after the date on the notice, unless there is a reasonable showing to the contrary.

(3) A request is considered filed on the date it is postmarked.

#### § 478.44 Determining the amount in controversy for a hearing.

(a) After an individual appellant has submitted a request for a hearing, the ALJ determines the amount in controversy in accordance with § 405.740(a) of this chapter for Part A services or § 405.817(a) of this chapter for Part B services. When two or more appellants submit a request for hearing, the ALJ determines the amount in controversy in accordance with § 405.740(b) of this chapter for Part A services and § 405.817(b) of this chapter for Part B services.

(b) If the ALJ determines that the amount in controversy is less than \$200, the ALJ, without holding a hearing, notifies the parties to the hearing that the parties have 15 calendar days to submit additional evidence to prove that the amount in controversy is at least \$200.

(c) At the end of the 15-day period, if the ALJ determines that the amount in controversy is less than \$200, the ALJ, without holding a hearing, dismisses the request for a hearing without ruling on the substantive issues involved in the appeal and notifies the parties to the hearing and the QIO that the QIO reconsidered determination is conclusive for Medicare payment purposes.

[50 FR 15372, Apr. 17, 1985, as amended at 59 FR 12184, Mar. 16, 1994. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### 42 CFR Ch. IV (10–1–02 Edition)

#### § 478.46 Departmental Appeals Board and judicial review.

(a) The circumstances under which the DAB will review an ALJ hearing decision or dismissal are the same as those set forth at 20 CFR 404.970, (“Cases the Appeals Council will review”).

(b) If \$2,000 or more is in controversy, a party may obtain judicial review of an Departmental Appeals Board decision, or an ALJ hearing decision if a request for review by the Departmental Appeals Board was denied, by filing a civil action under the Federal Rules of Civil Procedure within 60 days after the date the party received notice of the Departmental Appeals Board decision or denial.

[50 FR 15372, Apr. 17, 1985, as amended at 61 FR 32349, June 24, 1996; 62 FR 25855, May 12, 1997. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### § 478.48 Reopening and revision of a reconsidered determination or a hearing decision.

(a) *QIO reopenings*—(1) *General rule.* A QIO or QIO subcontractor that made a reconsidered determination, or conducted a review of a DRG change as described in § 473.15, that is otherwise binding, may reopen and revise the reconsidered determination or review, either on its own motion or at the request of a party, within one year from the date of the reconsidered determination or review.

(2) *Extension of time limit.* A QIO or QIO subcontractor may reopen and revise its reconsidered determination, or its review of a DRG change as described in § 473.15, that is otherwise binding, after one year but within four years of the date of the determination or review if—

(i) The QIO receives new material evidence;

(ii) The QIO erred in interpretation or application of Medicare coverage policy;

(iii) There is an error apparent on the face of the evidence upon which the reconsidered determination was based; or

(iv) There is a clerical error in the statement of the reconsidered determination.

(b) *ALJ and Departmental Appeals Board Reopening—Applicable procedures.*

The ALJ or the Departmental Appeals Board, whichever made the decision, may reopen and revise the decision in accordance with the procedures set forth in § 405.750(b) of this chapter, which concerns reopenings and revisions under subpart G of part 405 of this chapter.

(c) *Fraud or similar abusive practice.* A reconsidered determination, a review of a DRG change, or a decision of an ALJ or the Departmental Appeals Board may be reopened and revised at any time, if the reconsidered determination, review, or decision was obtained through fraud or a similar abusive practice that does not support a formal finding of fraud.

[50 FR 15372, Apr. 17, 1985, as amended at 61 FR 32349, June 24, 1996; 62 FR 25855, May 12, 1997. Redesignated at 64 FR 66279, Nov. 24, 1999]

## PART 480—ACQUISITION, PROTECTION, AND DISCLOSURE OF PEER REVIEW INFORMATION

### Subpart A [Reserved]

### Subpart B—Utilization and Quality Control Quality Improvement Organizations (QIOs)

#### GENERAL PROVISIONS

Sec.

- 480.101 Scope and definitions.
- 480.102 Statutory bases for acquisition and maintenance of information.
- 480.103 Statutory bases for disclosure of information.
- 480.104 Procedures for disclosure by a QIO.
- 480.105 Notice of disclosures made by a QIO.
- 480.106 Exceptions to QIO notice requirements.
- 480.107 Limitations on redisclosure.
- 480.108 Penalties for unauthorized disclosure.
- 480.109 Applicability of other statutes and regulations.

#### QIO ACCESS TO INFORMATION

- 480.111 QIO access to records and information of institutions and practitioners.
- 480.112 QIO access to records and information of intermediaries and carriers.
- 480.113 QIO access to information collected for QIO purposes.
- 480.114 Limitations on data collection.

#### QIO RESPONSIBILITIES

- 480.115 Requirements for maintaining confidentiality.

- 480.116 Notice to individuals and institutions under review.

#### DISCLOSURE OF NONCONFIDENTIAL INFORMATION

- 480.120 Information subject to disclosure.
- 480.121 Optional disclosure of nonconfidential information.

#### DISCLOSURE OF CONFIDENTIAL INFORMATION

- 480.130 Disclosure to the Department.
- 480.131 Access to medical records for the monitoring of QIOs.
- 480.132 Disclosure of information about patients.
- 480.133 Disclosure of information about practitioners, reviewers and institutions.
- 480.134 Verification and amendment of QIO information.
- 480.135 Disclosure necessary to perform review responsibilities.
- 480.136 Disclosure to intermediaries and carriers.
- 480.137 Disclosure to Federal and State enforcement agencies responsible for the investigation or identification of fraud or abuse of the Medicare or Medicaid programs.
- 480.138 Disclosure for other specified purposes.
- 480.139 Disclosure of QIO deliberations and decisions.
- 480.140 Disclosure of quality review study information.
- 480.141 Disclosure of QIO interpretations on the quality of health care.
- 480.142 Disclosure of sanction reports.
- 480.143 QIO involvement in shared health data systems.

AUTHORITY: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

### Subpart A [Reserved]

### Subpart B—Utilization and Quality Control Quality Improvement Organizations (QIOs)

SOURCE: 50 FR 15359, Apr. 17, 1985, unless otherwise noted. Redesignated at 64 FR 66279, Nov. 24, 1999.

#### GENERAL PROVISIONS

#### § 480.101 Scope and definitions.

(a) *Scope.* This subpart sets forth the policies and procedures governing—

(1) Disclosure of information collected, acquired or generated by a Utilization and Quality Control Quality Improvement Organization (QIO) (or