

Pt. 1642

45 CFR Ch. XVI (10–1–05 Edition)

(3) The Inspector General, at his or her discretion and after determining that a compelling reason exists, may stay the effect of the debarment, suspension or removal pending conclusion of his or her review of the matter.

(c) *Reconsideration.* (1) A debarred, suspended or removed IPA may submit a request to the debarring official to reconsider the debarment, suspension or removal decision, reduce the period of debarment or removal, or terminate the suspension.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) In the case of suspension, reversal of the conviction or civil judgment upon which the suspension was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the debarment, suspension or removal was imposed; or

(v) Other reasons the debarring official deems appropriate.

(3) A request for reconsideration of a suspension which was based a conviction, civil judgment, or sanction that has been reversed may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the debarring official's decision imposing the debarment or suspension. Only one such request may be filed in any twelve month period.

(5) The debarring official's decision on a request for reconsideration is subject to the appeal procedure set forth in paragraph (b) of this section.

PART 1642—ATTORNEYS' FEES

Sec.

1642.1 Purpose.

1642.2 Definitions.

1642.3 Prohibition.

1642.4 Applicability of restriction on attorneys' fees.

1642.5 Accounting for and use of attorneys' fees.

1642.6 Acceptance of reimbursement from a client.

1642.7 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996e(d)(6); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat 1321, section 504(a)(13).

SOURCE: 62 FR 25864, May 12, 1997, unless otherwise noted.

§ 1642.1 Purpose.

This part is designed to insure that recipients or employees of recipients do not claim, or collect and retain attorneys' fees available under any Federal or State law permitting or requiring the awarding of attorneys' fees.

§ 1642.2 Definitions.

(a) *Attorneys' fees* means an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the awarding of such fees or a payment to an attorney from a client's retroactive statutory benefits.

(b) *Attorneys' fees* do not include the following:

(1) Payments made to a recipient or an employee of a recipient for a case in which a court appoints the recipient employee to provide representation pursuant to a statute or court rule or practice equally applicable to all attorneys in the jurisdiction, and in which the recipient or employee receives compensation under the same terms and conditions as are applied generally to attorneys practicing in the court in which the appointment is made;

(2) Payments made to a recipient or an employee of a recipient pursuant to a grant, contract or other agreement by a governmental agency or other third party for representation of clients;

(3) Payments received as a result of sanctions imposed by a court for violations of court rules or practices, or statutes relating to court practice, including Rule 11 or discovery rules of the Federal Rules of Civil Procedure, or similar State court rules or practices, or statutes; and

(4) Reimbursement of costs and expenses from an opposing party or from a client pursuant to § 1642.6.

(c) An *award* is an order by a court or an administrative agency that the unsuccessful party pay the attorneys' fees of the prevailing party or an order by a