

end of the applicable adjudication period under paragraph (a) or (b) of this section:

(i) Complete its reconsideration and notify all parties of its decision consistent with § 405.972 or § 405.976.

(ii) Acknowledge the escalation notice in writing and forward the case file to the ALJ hearing office.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37702, June 30, 2005]

§ 405.972 Withdrawal or dismissal of a request for a reconsideration.

(a) *Withdrawing a request.* An appellant that files a request for reconsideration may withdraw its request by filing a written and signed request for withdrawal. The request for withdrawal must—

(1) Contain a clear statement that the appellant is withdrawing the request for reconsideration and does not intend to proceed further with the appeal.

(2) Be received in the QIC's mailroom before the reconsideration is issued.

(b) *Dismissing a request.* A QIC dismisses a reconsideration request, either entirely or as to any stated issue, under any of the following circumstances:

(1) When the person or entity requesting reconsideration is not a proper party under § 405.906(b) or does not otherwise have a right to a reconsideration under section 1869(b) of the Act;

(2) When the QIC determines that the party failed to make out a valid request for reconsideration that substantially complies with § 405.964(a) and (b);

(3) When the party fails to file the reconsideration request in accordance with the timeframes established in § 405.962;

(4) When a beneficiary or the beneficiary's representative files a request for reconsideration, but the beneficiary dies while the request is pending, and all of the following criteria apply:

(i) The beneficiary's surviving spouse or estate has no remaining financial interest in the case. In deciding this issue, the QIC considers if the surviving spouse or estate remains liable for the services for which payment was denied or a Medicare contractor held the beneficiary liable for subsequent similar services under the limitation of

liability provisions based on the denial of payment for services at issue;

(ii) No other individual or entity with a financial interest in the case wishes to pursue the appeal; and

(iii) No other party to the redetermination filed a valid and timely request for reconsideration under § 405.962 and § 405.964.

(5) When a party filing for the reconsideration submits a written request of withdrawal to the QIC and satisfies the criteria set forth in paragraph (a) of this section before the reconsideration has been issued; or

(6) When the contractor has not issued a redetermination on the initial determination for which a reconsideration is sought.

(c) *Notice of dismissal.* A QIC mails or otherwise transmits written notice of the dismissal of the reconsideration request to the parties at their last known addresses. The notice states that there is a right to request that the contractor vacate the dismissal action. The appeal will proceed with respect to any other parties that have filed a timely request for reconsideration.

(d) *Vacating a dismissal.* If good and sufficient cause is established, a QIC may vacate its dismissal of a request for reconsideration within 6 months of the date of the notice of dismissal.

(e) *Effect of dismissal.* The dismissal of a request for reconsideration is final and binding, unless it is modified or reversed by an ALJ under § 405.1004 or vacated under paragraph (d) of this section.

§ 405.974 Reconsideration.

(a) *Reconsideration of a contractor determination.* Except as provided in § 405.972, upon the basis of the evidence of record, the QIC must issue a reconsideration affirming or reversing, in whole or in part, the initial determination, including the redetermination, in question.

(b) *Reconsideration of contractor's dismissal of a redetermination request.* (1) A party to a contractor's dismissal of a request for redetermination has a right to have the dismissal reviewed by a QIC, if the party files a written request for review of the dismissal with the QIC within 60 days after receipt of the contractor's notice of dismissal.