

§ 422.641

appeal. If the IRE's decision is reversed on appeal, the MA organization must reimburse the enrollee, consistent with the appealed decision, for the costs of any covered services for which the enrollee has already paid the MA organization or provider.

EFFECTIVE DATE NOTE: At 68 FR 20349, Apr. 4, 2003, § 422.626 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget

Subpart N—Medicare Contract Determinations and Appeals

SOURCE: 63 FR 35113, June 26, 1998, unless otherwise noted.

§ 422.641 Contract determinations.

This subpart establishes the procedures for making and reviewing the following contract determinations:

(a) A determination that an entity is not qualified to enter into a contract with CMS under Part C of title XVIII of the Act.

(b) A determination to terminate a contract with an MA organization in accordance with § 422.510(a).

(c) A determination not to authorize a renewal of a contract with an MA organization in accordance with § 422.506(b).

§ 422.644 Notice of contract determination.

(a) When CMS makes a contract determination, it gives the MA organization written notice.

(b) The notice specifies—

(1) The reasons for the determination; and

(2) The MA organization's right to request reconsideration.

(c) For CMS-initiated terminations, CMS mails notice 90 days before the anticipated effective date of the termination. For terminations based on initial determinations described at § 422.510(a)(5), CMS immediately notifies the MA organization of its decision to terminate the organization's MA contract.

(d) When CMS determines that it will not authorize a contract renewal, CMS mails the notice to the MA organiza-

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tion by May 1 of the current contract year.

§ 422.646 Effect of contract determination.

The contract determination is final and binding unless—

(a) The determination is reconsidered in accordance with §§ 422.648 through 422.658;

(b) A timely request for a hearing is filed under § 422.662; or

(c) The reconsideration decision is revised as a result of a reopening under § 422.696.

§ 422.648 Reconsideration: Applicability.

(a) Reconsideration is the first step for appealing a contract determination specified in § 422.641.

(b) CMS reconsiders the specified determinations if the contract applicant or the MA organization files a written request in accordance with § 422.650.

(c) Notice of any redetermination favorable to the MA organization applicant, including those resulting from a hearing or Administrator review conducted under this subpart, must be issued by July 15 for the contract in question to be effective on January 1 of the following year.

[63 FR 35113, June 26, 1998, as amended at 65 FR 40331, June 29, 2000; 70 FR 4741, Jan. 28, 2005]

§ 422.650 Request for reconsideration.

(a) *Method and place for filing a request.* A request for reconsideration must be made in writing and filed with any CMS office.

(b) *Time for filing a request.* The request for reconsideration must be filed within 15 days from the date of the notice of the initial determination.

(c) *Proper party to file a request.* Only an authorized official of the contract applicant or MA organization that was the subject of a contract determination may file the request for reconsideration.

(d) *Withdrawal of a request.* The MA organization or contract applicant who filed the request for a reconsideration may withdraw it at any time before the

notice of the reconsidered determination is mailed. The request for withdrawal must be in writing and filed with CMS.

[63 FR 35113, June 26, 1998, as amended at 65 FR 40331, June 29, 2000]

§ 422.652 Opportunity to submit evidence.

CMS provides the MA organization or contract applicant and the CMS official or officials who made the contract determination reasonable opportunity, not to exceed the timeframe in which an MA organization could choose to request a hearing as described at § 422.662, to present as evidence any documents or written statements that are relevant and material to the matters at issue.

[65 FR 40332, June 29, 2000]

§ 422.654 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the contract determination, the evidence and findings upon which that was based, and any other written evidence submitted before notice of the reconsidered determination is mailed, including facts relating to the status of the MA organization subsequent to the contract determination; and

(b) Affirms, reverses, or modifies the initial determination.

§ 422.656 Notice of reconsidered determination.

(a) CMS gives the MA organization or contract applicant written notice of the reconsidered determination.

(b) The notice—

(1) Contains findings with respect to the contract applicant's qualifications to enter into, or the MA organization's qualifications to remain under, a contract with CMS under Part C of title XVIII of the Act;

(2) States the specific reasons for the reconsidered determination; and

(3) Informs the MA organization or contract applicant of its right to a hearing if it is dissatisfied with the determination.

[63 FR 35113, June 26, 1998, as amended at 65 FR 40332, June 29, 2000]

§ 422.658 Effect of reconsidered determination.

A reconsidered determination is final and binding unless a request for a hearing is filed in accordance with § 422.662 or it is revised in accordance with § 422.696.

§ 422.660 Right to a hearing.

The following parties are entitled to a hearing:

(a) A contract applicant that has been determined in a reconsidered determination to be unqualified to enter into a contract with CMS under Part C of title XVIII of the Act.

(b) An MA organization whose contract with CMS has been terminated or has not been renewed as a result of a contract determination as provided in § 422.641.

[63 FR 35113, June 26, 1998, as amended at 65 FR 40332, June 29, 2000]

§ 422.662 Request for hearing.

(a) *Method and place for filing a request.* A request for a hearing must be made in writing and filed by an authorized official of the contract applicant or MA organization that was the party to the determination under appeal. The request for a hearing must be filed with any CMS office.

(b) *Time for filing a request.* A request for a hearing must be filed within 15 days after the date of the reconsidered determination.

(c) *Parties to a hearing.* The parties to a hearing must be—

(1) The parties described in § 422.660;

(2) At the discretion of the hearing officer, any interested parties who make a showing that their rights may be prejudiced by the decision to be rendered at the hearing; and

(3) CMS.

[63 FR 35113, June 26, 1998, as amended at 65 FR 40332, June 29, 2000]

§ 422.664 Postponement of effective date of a contract determination when a request for a hearing with respect to a contract determination is filed timely.

(a) CMS postpones the proposed effective date of the contract determination to terminate a contract with an MA organization until a hearing decision is