

## § 476.104

in the health care facility as described in § 466.98(d).

(c) *Peer involvement in quality review studies.* Practitioners must be involved in the design of quality review studies, development of criteria, and actual conduct of studies involving their peers.

(d) *Consultation with practitioners other than physicians.* To the extent practicable, a QIO must consult with nurses and other professional health care practitioners (other than physicians defined in 1861(r) (1) and (2) of the Act) and with representatives of institutional and noninstitutional providers and suppliers with respect to the QIO's responsibility for review.

[50 FR 15330, Apr. 17, 1985; 50 FR 41886, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

### § 476.104 Coordination of activities.

In order to achieve efficient and economical review, a QIO must coordinate its activities (including information exchanges) with the activities of—

- (a) Medicare fiscal intermediaries and carriers;
- (b) Other QIOs; and
- (c) Other public or private review organizations as may be appropriate.

## PART 478—RECONSIDERATIONS AND APPEALS

### Subpart A [Reserved]

### Subpart B—Utilization and Quality Control Quality Improvement Organization (QIO) Reconsiderations and Appeals

Sec.

- 478.10 Scope.
- 478.12 Statutory basis.
- 478.14 Applicability.
- 478.15 QIO review of changes resulting from DRG validation.
- 478.16 Right to reconsideration.
- 478.18 Location for submitting requests for reconsideration.
- 478.20 Time limits for requesting reconsideration.
- 478.22 Good cause for late filing of a request for a reconsideration or hearing.
- 478.24 Opportunity for a party to obtain and submit information.
- 478.26 Delegation of the reconsideration function.
- 478.28 Qualifications of a reconsideration reviewer.

## 42 CFR Ch. IV (10–1–06 Edition)

- 478.30 Evidence to be considered by the reconsideration reviewer.
- 478.32 Time limits for issuance of the reconsidered determination.
- 478.34 Notice of a reconsidered determination.
- 478.36 Record of reconsideration.
- 478.38 Effect of a reconsidered determination.
- 478.40 Beneficiary's right to a hearing.
- 478.42 Submitting a request for a hearing.
- 478.44 Determining the amount in controversy for a hearing.
- 478.46 Departmental Appeals Board and judicial review.
- 478.48 Reopening and revision of a reconsidered determination or a hearing decision.

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 Organization (QIO) Reconsiderations and Appeals

SOURCE: 50 FR 15372, Apr. 17, 1985, unless otherwise noted. Redesignated at 64 FR 66279, Nov. 24, 1999.

#### § 478.10 Scope.

This subpart establishes the requirements and procedures for—

- (a) Reconsiderations conducted by a Utilization and Quality Control Quality Improvement Organization (QIO) or its subcontractor of initial denial determinations concerning services furnished or proposed to be furnished under Medicare;
- (b) Hearings and judicial review of reconsidered determinations; and
- (c) QIO review of a change in diagnostic and procedural coding information.

[50 FR 15372, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### § 478.12 Statutory basis.

- (a) Under section 1154 of the Act, a QIO may make an initial determination that services furnished or proposed to be furnished are not reasonable, necessary, or delivered in the most appropriate setting.
- (b) Under section 1155 of the Act, the following rules apply:

(1) A Medicare beneficiary, a provider, or an attending practitioner who is dissatisfied with an initial denial determination under paragraph (a) of this section is entitled to a reconsideration by the QIO that made that determination.

(2) The beneficiary is also entitled to the following:

(i) A hearing by an administrative law judge if \$200 or more is still in controversy after a reconsidered determination.

(ii) Judicial review if \$2000 or more is still in controversy after a final determination by the Department.

(c) Under section 1866(a)(1)(F) of the Act, a hospital that is reimbursed by the Medicare program must maintain an agreement with a QIO under which the QIO reviews the validity of diagnostic information furnished by the hospital.

[50 FR 15372, Apr. 17, 1985, as amended at 60 FR 50442, Sept. 29, 1995. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### § 478.14 Applicability.

(a) *Basic provision.* This subpart applies to reconsiderations and hearings of a QIO initial denial determination involving the following issues:

(1) Reasonableness of services.

(2) Medical necessity of services.

(3) Appropriateness of the inpatient setting in which services were furnished or are proposed to be furnished.

(b) *Concurrent appeal.* A reconsideration or hearing provided under this subpart fulfills the requirements of any other review, hearing, or appeal under the Act to which a party may be entitled with respect to the same issues.

(c) *Nonapplicability of rules to related determinations.* (1) A QIO may not reconsider its decision whether to grant grace days.

(2) Limitation of liability determinations on excluded coverage of certain services are made under section 1879 of the Act. Initial determinations under section 1879 and further appeals are governed by the reconsideration and appeal procedures in part 405, subpart G of this chapter for determinations under Medicare Part A, and part 405, subpart H of this chapter for determinations under Medicare Part B. References in those subparts to initial and

reconsidered determinations made by an intermediary, carrier or CMS should be read to mean initial and reconsidered determinations made by a QIO.

[50 FR 15372, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### § 478.15 QIO review of changes resulting from DRG validation.

(a) *General rules.* (1) A provider or practitioner dissatisfied with a change to the diagnostic or procedural coding information made by a QIO as a result of DRG validation under section 1866(a)(1)(F) of the Act is entitled to a review of that change if—

(i) The change caused an assignment of a different DRG; and

(ii) Resulted in a lower payment.

(2) A beneficiary may obtain a review of a QIO DRG coding change only if that change results in noncoverage of a furnished service.

(3) The individual who reviews changes in DRG procedural or diagnostic information must be a physician, and the individual who reviews changes in DRG coding must be qualified through training and experience with ICD-9-CM coding.

(b) *Procedures.* Procedures described in §§ 473.18 through 473.36, and 473.48 (a) and (c) for a QIO reconsideration or reopening also apply to QIO review of a DRG coding change.

(c) *Finality of review.* No additional review or appeal for matters governed by paragraph (a) of this section is available.

[50 FR 15372, Apr. 17, 1985; 50 FR 41887, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

#### § 478.16 Right to reconsideration.

A beneficiary, provider or practitioner who is dissatisfied with a QIO initial denial determination on one of the issues specified in § 473.14(a) has a right to a reconsideration of that determination by the QIO that made the initial denial determination.

#### § 478.18 Location for submitting requests for reconsideration.

(a) *Beneficiaries.* Except as provided in paragraph (c) of this section concerning requests for expedited reconsideration, a beneficiary who wishes to