(e) Consolidation of complaints regarding an NCD—
(1) Criteria for consideration. If a review is pending regarding a particular NCD provision(s) and no decision has been issued ending the review, and a new acceptable complaint is filed, the Board consolidates the complaints and conducts a consolidated NCD review if all of the following criteria are met:
   (i) The complaints are in regard to the same provision(s) of the same NCD, or there are other bases for consolidating the complaints.
   (ii) The complaints contain common questions of law, common questions of fact, or both.
   (iii) Consolidating the complaints does not unduly delay the Board’s decision.

(2) Decision to consolidate complaint. If the Board decides to consolidate complaints, the Board does the following:
   (i) Provides notification that the NCD review is consolidated and informs all parties of the docket number of the consolidated review.
   (ii) Makes a single record of the proceeding.
   (iii) Considers the relevant evidence introduced in each NCD complaint as introduced in the consolidated review.

(3) Decision not to consolidate complaints. If the Board decides not to consolidate complaints, the Board conducts separate NCD reviews for each complaint.

(f) Public notice of complaint and opportunity for interested parties to participate.

(a) Petition for participation. Any person or organization that wishes to participate as amicus curiae must timely file with the Board a petition that concisely states—
   (1) The petitioner’s interest in the hearing;
   (2) Who will represent the petitioner; and
   (3) The issues on which the petitioner intends to present argument.

(b) The nature of the proposed amicus participation. An amicus curiae is not a party to the hearing but may participate by—
   (1) Submitting a written statement of position to the Board before the beginning of the hearing;
   (2) Presenting a brief oral statement or other evidence at the hearing, at the point in the proceedings specified by the Board; and
   (3) Submitting a brief or a written statement when the parties submit briefs.

(c) Service by amicus curiae. Serving copies of any briefs or written statements on all parties.

§ 426.515 CMS’ role in making the NCD record available.

CMS will provide a copy of the NCD record (as described in §426.513) to the Board and all parties to the NCD review within 30 days of the receipt of the Board’s order.

§ 426.516 Role of Medicare Managed Care Organizations (MCOs) and State agencies in the NCD review process.

Medicare MCOs and Medicaid State agencies may participate in the NCD review process only if they meet the amicus participant criteria listed in §426.510(f)(3) and §426.513.