§ 423.667 Effect of Administrator's decision.

A decision by the Administrator under section §423.666(c) is final and binding unless it is reopened and revised in accordance with §423.668.

§ 423.668 Reopening of a contract determination or decision of a hearing officer or the Administrator.

(a) CMS may reopen and revise an initial determination upon its own motion.

(b) Contract determination. A decision of a hearing officer that is unfavorable to any party and is otherwise final may be reopened and revised by the hearing officer upon the officer's own motion within 1 year of the notice of the hearing decision. Another hearing officer designated by CMS may reopen and revise the decision if the hearing officer who issued the decision is unavailable.

(c) Decision of Administrator. A decision by the Administrator that is otherwise final may be reopened and revised by the Administrator upon the Administrator's own motion within 1 year of the notice of the Administrator's decision.

(d) Notices. (1) The notice of reopening and of any revisions following the reopening is mailed to the parties.

(2) The notice of revision specifies the reasons for revisions.

Subpart O—Intermediate Sanctions

§ 423.750 Types of intermediate sanctions and civil money penalties.

(a) The following intermediate sanctions may be imposed and will continue in effect until CMS is satisfied that the deficiencies that are the basis for the sanction determination have been corrected and are not likely to recur:

(1) Suspension of the Part D plan sponsor’s enrollment of Medicare beneficiaries.

(2) Suspension of payment to the Part D plan sponsor for Medicare beneficiaries enrolled after the date CMS notifies the organization of the intermediate sanction.

(3) Suspension of all marketing activities to Medicare beneficiaries by a Part D plan sponsor.

(b) CMS may impose civil money penalties as specified in 423.760.

§ 423.752 Basis for imposing intermediate sanctions and civil money penalties.

(a) All intermediate sanctions. For the violations listed in this paragraph (a), CMS may impose one or more of the sanctions specified in §423.750(a) of this subpart on any Part D plan sponsor with a contract. The Part D plan sponsor may also be subject to other remedies authorized under law.

(1) Fails substantially to provide medically necessary items and services that are required (under law or under
§ 423.756 Procedures for imposing intermediate sanctions and civil money penalties.

(a) Notice of intermediate sanction and opportunity to respond—(1) Notice of intent. Before imposing the intermediate sanctions, CMS—

(i) Sends a written notice to the Part D plan sponsor stating the nature and basis of the proposed intermediate sanction, and the Part D plan sponsor’s right to a hearing as specified in paragraph (b) of this section; and

(ii) Sends the OIG a copy of the notice.

(2) Opportunity to respond. CMS allows the Part D plan sponsor 10 calendar days after receipt of the notice to provide a written rebuttal. CMS considers receipt of the notice as the day after notice is sent by fax, e-mail, or submitted for overnight mail.

(b) Suspension of enrollment and marketing. If CMS makes a determination that could lead to a contract termination under § 423.509(a), CMS may impose the intermediate sanctions at § 423.750(a)(1) and (a)(3).

(c) Civil money penalties—(1) CMS. In addition to, or in place of, any intermediate sanctions, CMS may impose civil money penalties in the amounts specified in either of the following:

(i) Section 423.760(b) for any of the determinations at § 423.509(a), except § 423.509(a)(4)(i).

(ii) Section 423.760(c) for any of the determinations in paragraph (a) of this section except § 422.752(a)(5) of this chapter.

(2) OIG. In addition to, or in place of any intermediate sanctions imposed by CMS, the OIG, in accordance with part 1003 of Chapter V of this title, may impose civil money penalties for the following:

(i) Violations listed at 423.752(a).

(ii) Determinations made pursuant to § 422.510(a)(4)(i) of this chapter.