

longer qualifies to elect to claim payment for all emergency services furnished in a calendar year, the notice—

(i) States the calendar year to which the determination applies;

(ii) Specifies an effective date that is at least 5 days after the date of the notice; and

(iii) Specifies that the determination applies to services furnished, in the specified calendar year, to patients accepted (as inpatients or outpatients) on or after the effective date of the determination.

(4) *Other special rules.* Additional rules pertaining, for example, to content and timing of notice, notice to the public and to other entities, and time allowed for submittal of additional information, are set forth elsewhere in this chapter, as follows:

Part 405 Subpart X—for rural health clinics.
Part 416—for ambulatory surgical centers.

Part 489—for providers, when their provider agreements have been terminated.

Part 1001, Subpart B—for excluded or suspended providers, suppliers, physicians, or practitioners.

Part 1001, Subpart C—for providers, when their provider agreements are terminated by the OIG.

Part 1004—for sanctioned providers and practitioners.

(b) *Effect of initial determination.* An initial determination is binding unless it is—

(1) Reconsidered in accordance with § 498.24;

(2) Reversed or modified by a hearing decision in accordance with § 498.78; or

(3) Revised in accordance with § 498.32 or § 498.100.

§ 498.22 Reconsideration.

(a) *Right to reconsideration.* CMS or one of its contractors reconsiders an initial determination that affects a prospective provider or supplier, or a hospital seeking to qualify to claim payment for all emergency hospital services furnished in a calendar year, if the affected party files a written request in accordance with paragraphs (b) and (c) of this section. For denial or revocation of enrollment, prospective providers and suppliers and providers and suppliers have a right to reconsideration.

(b) *Request for reconsideration: Manner and timing.* The affected party specified

in paragraph (a) of this section, if dissatisfied with the initial determination may request reconsideration by filing the request—

(1) With CMS or with the State survey agency, or in the case of prospective supplier the entity specified in the notice of initial determination;

(2) Directly or through its legal representative or other authorized official; and

(3) Within 60 days from receipt of the notice of initial determination, unless the time is extended in accordance with paragraph (d) of this section. The date of receipt will be presumed to be 5 days after the date on the notice unless there is a showing that it was, in fact, received earlier or later.

(c) *Content of request.* The request for reconsideration must state the issues, or the findings of fact with which the affected party disagrees, and the reasons for disagreement.

(d) *Extension of time to file a request for reconsideration.* (1) If the affected party is unable to file the request within the 60 days specified in paragraph (b) of this section, it may file a written request with CMS, stating the reasons why the request was not filed timely.

(2) CMS will extend the time for filing a request for reconsideration if the affected party shows good cause for missing the deadline.

[52 FR 22446, June 12, 1987, as amended at 73 FR 36462, June 27, 2008]

§ 498.23 Withdrawal of request for reconsideration.

A request for reconsideration is considered withdrawn if the requestor files a written withdrawal request before CMS mails the notice of reconsidered determination, and CMS approves the withdrawal request.

§ 498.24 Reconsidered determination.

When a request for reconsideration has been properly filed in accordance with § 498.22, CMS—

(a) Receives written evidence and statements that are relevant and material to the matters at issue and are submitted within a reasonable time after the request for reconsideration;

(b) Considers the initial determination, the findings on which the initial determination was based, the evidence