

**§ 422.570**

**42 CFR Ch. IV (10–1–20 Edition)**

(c) *Timeframe for requests for payment.* The MA organization must process requests for payment according to the “prompt payment” provisions set forth in § 422.520.

(d) *Written notice for MA organization denials.* The MA organization must give the enrollee a written notice if—

(1) An MA organization decides to deny a service or an item, Part B drug, or payment in whole or in part, or reduce or prematurely discontinue the level of care for a previously authorized ongoing course of treatment.

(2) An enrollee requests an MA organization to provide an explanation of a practitioner’s denial of an item, service or Part B drug, in whole or in part.

(e) *Form and content of the MA organization notice.* The notice of any denial under paragraph (d) of this section must—

(1) Use approved notice language in a readable and understandable form;

(2) State the specific reasons for the denial;

(3) Inform the enrollee of his or her right to a reconsideration;

(4)(i) For service, item, and Part B drug denials, describe both the standard and expedited reconsideration processes, including the enrollee’s right to, and conditions for, obtaining an expedited reconsideration and the rest of the appeal process; and

(ii) For payment denials, describe the standard reconsideration process and the rest of the appeal process; and

(5) Comply with any other notice requirements specified by CMS.

(f) *Effect of failure to provide timely notice.* If the MA organization fails to provide the enrollee with timely notice of an organization determination as specified in this section, this failure itself constitutes an adverse organization determination and may be appealed.

[65 FR 40329, June 29, 2000, as amended at 70 FR 4739, Jan. 28, 2005; 70 FR 52027, Sept. 1, 2005; 75 FR 19812, Apr. 15, 2010; 75 FR 32859, June 10, 2010; 80 FR 7961, Feb. 12, 2015; 84 FR 23880, May 23, 2019]

**§ 422.570 Expediting certain organization determinations.**

(a) *Request for expedited determination.* An enrollee or a physician (regardless of whether the physician is affiliated

with the MA organization) may request that an MA organization expedite an organization determination involving the issues described in § 422.566(b)(3) and (b)(4). (This does not include requests for payment of services already furnished.)

(b) *How to make a request.* (1) To ask for an expedited determination, an enrollee or a physician must submit an oral or written request directly to the MA organization or, if applicable, to the entity responsible for making the determination, as directed by the MA organization.

(2) A physician may provide oral or written support for a request for an expedited determination.

(c) *How the MA organization must process requests.* The MA organization must establish and maintain the following procedures for processing requests for expedited determinations:

(1) Establish an efficient and convenient means for individuals to submit oral or written requests. The MA organization must document all oral requests in writing and maintain the documentation in the case file.

(2) Promptly decide whether to expedite a determination, based on the following requirements:

(i) For a request made by an enrollee the MA organization must provide an expedited determination if it determines that applying the standard timeframe for making a determination could seriously jeopardize the life or health of the enrollee or the enrollee’s ability to regain maximum function.

(ii) For a request made or supported by a physician, the MA organization must provide an expedited determination if the physician indicates that applying the standard timeframe for making a determination could seriously jeopardize the life or health of the enrollee or the enrollee’s ability to regain maximum function.

(d) *Actions following denial.* If an MA organization denies a request for expedited determination, it must take the following actions:

(1) Automatically transfer a request to the standard timeframe and make the determination within the 72-hour or 14-day timeframe, as applicable, established in § 422.568 for a standard determination. The timeframe begins

when the MA organization receives the request for expedited determination.

(2) Give the enrollee prompt oral notice of the denial and subsequently deliver, within 3 calendar days, a written letter that—

(i) Explains that the MA organization will process the request using the 14-day timeframe for standard determinations;

(ii) Informs the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision not to expedite; and

(iii) Informs the enrollee of the right to resubmit a request for an expedited determination with any physician's support; and

(iv) Provides instructions about the grievance process and its timeframes.

(e) *Action on accepted request for expedited determination.* If an MA organization grants a request for expedited determination, it must make the determination and give notice in accordance with § 422.572.

(f) *Prohibition of punitive action.* An MA organization may not take or threaten to take any punitive action against a physician acting on behalf or in support of an enrollee in requesting an expedited determination.

[63 FR 35107, June 26, 1998, as amended at 65 FR 40329, June 29, 2000; 70 FR 4739, Jan. 28, 2005; 84 FR 23880, May 23, 2019]

**§ 422.572 Timeframes and notice requirements for expedited organization determinations.**

(a) *Timeframes—(1) Requests for service or item.* Except as provided in paragraph (b) of this section, an MA organization that approves a request for expedited determination must make its determination and notify the enrollee (and the physician involved, as appropriate) of its decision, whether adverse or favorable, as expeditiously as the enrollee's health condition requires, but no later than 72 hours after receiving the request.

(2) *Requests for a Part B drug.* An MA organization that approves a request for expedited determination must make its determination and notify the enrollee (and the physician or prescriber involved, as appropriate) of its decision as expeditiously as the enrollee's health condition requires, but no

later than 24 hours after receiving the request. This 24-hour period may not be extended under the provisions in paragraph (b) of this section.

(b) *Extensions; requests for service or item.* (1) When timeframe may be extended. The MA organization may extend the 72-hour deadline for expedited organization determinations for requests for services or items by up to 14 calendar days if—

(i) The enrollee requests the extension;

(ii) The extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or

(iii) The extension is justified due to extraordinary, exigent, or other non-routine circumstances and is in the enrollee's interest.

(2) *Notice of extension.* When the MA organization extends the deadline, it must notify the enrollee in writing of the reasons for the delay and inform the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision to grant an extension. The MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than upon expiration of the extension.

(c) *Confirmation of oral notice.* If the MA organization first notifies an enrollee of an adverse expedited determination orally, it must mail written confirmation to the enrollee within 3 calendar days of the oral notification.

(d) *How the MA organization must request information from noncontract providers.* If the MA organization must receive medical information from noncontract providers, the MA organization must request the necessary information from the noncontract provider within 24 hours of the initial request for an expedited organization determination. Noncontract providers must make reasonable and diligent efforts to expeditiously gather and forward all necessary information to assist the MA organization in meeting the required timeframe. Regardless of whether the MA organization must request information from noncontract providers,