

§ 405.1804

any request for hearing on the determination the provider may make under § 405.1811 or § 405.1835.

(d) *Effect of certain final agency decisions and final court judgments; audits of self-disallowed and other items.* (1) This paragraph applies to the following administrative decisions and court judgments:

(i) A final hearing decision by the contractor (as described in § 405.1833 of this subpart) or the Board (as described in § 405.1871(b) of this subpart).

(ii) A final decision by a CMS reviewing official (as described in § 405.1834(f)(1) of this subpart) or the Administrator (as described in § 405.1875(e)(4) of this subpart) following review of a hearing decision by the contractor or the Board, respectively.

(iii) A final, non-appealable judgment by a court on a Medicare reimbursement issue that the court rendered in accordance with jurisdiction under section 1878 of the Act (as described in §§ 405.1842 and 405.1877 of this subpart).

(2) For any final agency decision or final court judgment specified in paragraph (d)(1) of this section, the contractor must promptly, upon notification from CMS—

(i) Determine the effect of the final decision or judgment on the contractor determination for the cost reporting period at issue in the decision or judgment; and

(ii) Issue any revised contractor determination, and make any additional program payment, or recoup or offset any program payment (as described in § 405.371 of this subpart), for the period that may be necessary to implement the final decision or judgment on the specific matters at issue in the decision or judgment.

(3) CMS may require the contractor to audit any item, including any self-disallowed item, at issue in an appeal or a civil action, before any revised contractor determination or additional Medicare payment, recoupment, or offset may be determined for an item under paragraph (d)(2) of this section.

(4) For any final settlement agreement, whether for an appeal to the contractor hearing officer(s) or the Board or for a civil action before a court, the contractor must implement the settlement agreement in accordance with

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paragraphs (d)(2) and (d)(3) of this section, unless a particular administrative or judicial settlement agreement provides otherwise.

[48 FR 39834, Sept. 1, 1983, as amended at 49 FR 322, Jan. 3, 1984; 51 FR 34793, Sept. 30, 1986; 61 FR 63748, Dec. 2, 1996; 73 FR 30244, May 23, 2008; 74 FR 39412, Aug. 6, 2009; 80 FR 70597, Nov. 13, 2015]

§ 405.1804 Matters not subject to administrative and judicial review under prospective payment.

Neither administrative nor judicial review is available for controversies about the following matters:

(a) The determination of the requirement, or the proportional amount, of the budget neutrality adjustment in the prospective payment rates required under section 1886(e)(1) of the Social Security Act.

(b) The establishment of—

(1) Diagnosis related groups (DRGs);

(2) The methodology for the classification of inpatient discharges within the DRGs; or

(3) Appropriate weighting factors that reflect the relative hospital resources used with respect to discharge within each DRG.

[49 FR 322, Jan. 1, 1984, as amended at 78 FR 75195, Dec. 10, 2013]

§ 405.1805 Parties to contractor determination.

The parties to the contractor's determination are the provider and any other entity found by the contractor to be a related organization of the provider under § 413.17 of this chapter.

[48 FR 39835, Sept. 1, 1983, as amended at 51 FR 34793, Sept. 30, 1986]

§ 405.1807 Effect of contractor determination.

The determination shall be final and binding on the party or parties to such determination unless:

(a) A contractor hearing is requested in accordance with § 405.1811 and a contractor hearing decision rendered in accordance with § 405.1831; or

(b) The contractor determination is revised in accordance with § 405.1885; or

(c) A Board hearing is requested in accordance with § 405.1835 and a hearing decision rendered pursuant thereto.