

addresses. The notice states that there is a right to request that the contractor vacate the dismissal action. The appeal will proceed with respect to any other parties that have filed a timely request for reconsideration.

(d) *Vacating a dismissal.* If good and sufficient cause is established, a QIC may vacate its dismissal of a request for reconsideration within 180 calendar days of the date of the notice of dismissal.

(e) *Effect of dismissal.* The dismissal of a request for reconsideration is binding unless it is modified or reversed by an ALJ or attorney adjudicator under § 405.1004 or vacated under paragraph (d) of this section. The dismissal of a request for review of a contractor's dismissal of a redetermination request is binding and not subject to further review unless vacated under paragraph (d) of this section.

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65334, Dec. 9, 2009; 82 FR 5107, Jan. 17, 2017; 84 FR 19870, May 7, 2019]

**§ 405.974 Reconsideration and review of a contractor's dismissal of a request for redetermination.**

(a) *Reconsideration of a contractor determination.* Except as provided in § 405.972, upon the basis of the evidence of record, the QIC must issue a reconsideration affirming or reversing, in whole or in part, the initial determination, including the redetermination, in question.

(b) *Review of a contractor's dismissal of a redetermination request.* (1) A party to a contractor's dismissal of a request for redetermination has a right to have the dismissal reviewed by a QIC, if the party files a written request for review of the dismissal with the QIC within 60 calendar days after receipt of the contractor's notice of dismissal.

(i) For purposes of this section, the date of receipt of the contractor's notice of dismissal is presumed to be 5 calendar days after the date of the notice of dismissal, unless there is evidence to the contrary.

(ii) For purposes of meeting the 60 calendar day filing deadline, the request is considered as filed on the date it is received by the QIC indicated on the notice of dismissal.

(2) If the QIC determines that the contractor's dismissal was in error, it vacates the dismissal and remands the case to the contractor for a redetermination.

(3) A QIC's review of a contractor's dismissal of a redetermination request is binding and not subject to further review.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37703, June 30, 2005; 74 FR 65334, Dec. 9, 2009; 82 FR 5108, Jan. 17, 2017]

**§ 405.976 Notice of a reconsideration.**

(a) *Notification to parties—(1) General rules.* (i) Written notice of the reconsideration must be mailed or otherwise transmitted to all parties at their last known addresses, in accordance with the timeframes established in § 405.970(a) or (b).

(ii) The notice must be written in a manner reasonably calculated to be understood by a beneficiary.

(iii) The QIC must promptly notify the entity responsible for payment of claims under Part A or Part B of its reconsideration. If the reconsideration results in issuance of supplemental payment to a provider or supplier, the Medicare contractor must also issue an electronic or paper RA notice to the provider or supplier.

(2) *Overpayment cases involving multiple beneficiaries who have no liability.* In an overpayment case involving multiple beneficiaries who have no liability, the QIC may issue a written notice only to the appellant.

(b) *Content of the notice.* The reconsideration must be in writing and contain—

(1) A clear statement indicating whether the reconsideration is favorable or unfavorable;

(2) A summary of the facts, including as appropriate, a summary of the clinical or scientific evidence used in making the reconsideration;

(3) An explanation of how pertinent laws, regulations, coverage rules, and CMS policies, apply to the facts of the case, including, where applicable, the rationale for declining to follow an LCD, LMRP, or CMS program guidance;

(4) In the case of a determination on whether an item or service is reasonable or necessary under section

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1862(a)(1)(A) of the Act, an explanation of the medical and scientific rationale for the decision;

(5) A summary of the rationale for the reconsideration.

(i) If the notice of redetermination indicated that specific documentation should be submitted with the reconsideration request, and the documentation was not submitted with the request for reconsideration, the summary must indicate how the missing documentation affected the reconsideration; and

(ii) The summary must also specify that, consistent with §§ 405.956(b)(8) and 405.966(b), all evidence, including evidence requested in the notice of redetermination, that is not submitted prior to the issuance of the reconsideration will not be considered at the OMHA level, unless the appellant demonstrates good cause as to why the evidence was not provided prior to the issuance of the QIC's reconsideration. This requirement does not apply to beneficiaries, unless the beneficiary is represented by a provider or supplier or to State Medicaid Agencies;

(6) Information concerning to the parties' right to an ALJ hearing, including the applicable amount in controversy requirement and aggregation provisions;

(7) A statement of whether the amount in controversy is estimated to meet or not meet the amount required for an ALJ hearing, if—

(i) The request for reconsideration was filed by a beneficiary who is not represented by a provider, supplier, or Medicaid State agency; and

(ii) The reconsideration decision is partially or fully unfavorable.

(8) A description of the procedures that a party must follow in order to obtain an ALJ hearing of an expedited reconsideration, including the time frame under which a request for an ALJ hearing must be filed;

(9) If appropriate, advice as to the requirements for use of the expedited access to judicial review process set forth in § 405.990;

(10) The procedures for obtaining additional information concerning the reconsideration, such as specific provisions of the policy, manual, or regula-

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tion used in making the reconsideration; and

(11) Any other requirements specified by CMS.

[70 FR 11472, Mar. 8, 2005, as amended at 82 FR 5108, Jan. 17, 2017]

### § 405.978 Effect of a reconsideration.

A reconsideration is binding on all parties, unless—

(a) An ALJ or attorney adjudicator decision is issued in accordance to a request for an ALJ hearing made in accordance with § 405.1014;

(b) A review entity issues a decision in accordance to a request for expedited access to judicial review under § 405.990; or

(c) The reconsideration is revised as a result of a reopening in accordance with § 405.980.

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65334, Dec. 9, 2009; 82 FR 5108, Jan. 17, 2017]

## REOPENINGS

### § 405.980 Reopening of initial determinations, redeterminations, reconsiderations, decisions, and reviews.

(a) *General rules.* (1) A reopening is a remedial action taken to change a binding determination or decision that resulted in either an overpayment or underpayment, even though the binding determination or decision may have been correct at the time it was made based on the evidence of record. That action may be taken by—

(i) A contractor to revise the initial determination or redetermination;

(ii) A QIC to revise the reconsideration;

(iii) An ALJ or attorney adjudicator to revise his or her decision; or

(iv) The Council to revise the ALJ or attorney adjudicator decision, or its review decision.

(2) If a contractor issues a denial of a claim because it did not receive requested documentation during medical review and the party subsequently requests a redetermination, the contractor must process the request as a reopening.

(3) Notwithstanding paragraph (a)(4) of this section, a contractor must process clerical errors (which includes