

§ 422.602

405 of this chapter. For purposes of calculating the amount remaining in controversy under this section, references to coinsurance in § 405.1006(d) of this chapter should be read to include coinsurance and copayment amounts.

(c) If the basis for the appeal is the MA organization's refusal to provide services, CMS uses the projected value of those services to compute the amount remaining in controversy.

[63 FR 35107, June 26, 1998, as amended at 70 FR 4740, Jan. 28, 2005; 86 FR 6102, Jan. 19, 2021]

§ 422.602 Request for an ALJ hearing.

(a) *How and where to file a request.* A party must file a written request for a hearing with the entity specified in the IRE's reconsideration notice.

(b) *When to file a request.* (1) Except when an ALJ or attorney adjudicator extends the time frame as provided in part 405 of this chapter, a party must file a request for a hearing within 60 calendar days of receipt of the notice of a reconsidered determination. The time and place for a hearing before an ALJ will be set in accordance with § 405.1020 of this chapter.

(2) For purposes of this section, the date of receipt of the reconsideration is presumed to be 5 calendar days after the date of the notice of the reconsidered determination, unless there is evidence to the contrary.

(c) *Parties to a hearing.* The parties to a hearing are the parties to the reconsideration, the MA organization, and any other person or entity whose rights with respect to the reconsideration may be affected by the hearing, as determined by the ALJ.

(d) *Insufficient amount in controversy.* (1) If a request for a hearing clearly shows that the amount in controversy is less than that required under § 422.600, the ALJ dismisses the request.

(2) If, after a hearing is initiated, the ALJ finds that the amount in controversy is less than the amount required under § 422.600, the ALJ discontinues the hearing and does not rule on the substantive issues raised in the appeal.

[63 FR 35107, June 26, 1998, as amended at 70 FR 4740, Jan. 28, 2005; 82 FR 5125, Jan. 17, 2017]

42 CFR Ch. IV (10–1–23 Edition)

§ 422.608 Medicare Appeals Council (Council) review.

Any party to the ALJ's or attorney adjudicator's decision or dismissal, including the MA organization, who is dissatisfied with the decision or dismissal, may request that the Council review the decision or dismissal. The regulations under part 405 of this chapter regarding Council review apply to matters addressed by this subpart to the extent that they are appropriate, except as provided in § 422.562(d)(2).

[82 FR 5125, Jan. 17, 2017]

§ 422.612 Judicial review.

(a) *Review of ALJ's or attorney adjudicator's decision.* Any party, including the MA organization, may request judicial review (upon notifying the other parties) of an ALJ's or attorney adjudicator's decision if—

(1) The Council denied the party's request for review; and

(2) The amount in controversy meets the threshold requirement established annually by the Secretary.

(b) *Review of Council decision.* Any party, including the MA organization, may request judicial review (upon notifying the other parties) of the Council decision if it is the final decision of CMS and the amount in controversy meets the threshold established in paragraph (a)(2) of this section.

(c) *How to request judicial review.* In order to request judicial review, a party must file a civil action in a district court of the United States in accordance with section 205(g) of the Act. See part 405 of this chapter for a description of the procedures to follow in requesting judicial review.

[63 FR 35107, June 26, 1998; 63 FR 52614, Oct. 1, 1998, as amended at 65 FR 40331, June 29, 2000; 70 FR 4740, Jan. 28, 2005; 82 FR 5125, Jan. 17, 2017]

§ 422.616 Reopening and revising determinations and decisions.

(a) An organization or reconsidered determination made by an MA organization, a reconsidered determination made by the independent entity described in § 422.592, or the decision of an ALJ or attorney adjudicator or the Council that is otherwise final and binding may be reopened and revised