

(3) An enrollee who received a Council decision or a Part D plan sponsor may request that the Council reopen its decision within 180 calendar days from the date of the review decision for good cause in accordance with § 423.1986.

[74 FR 65363, Dec. 9, 2009, as amended at 82 FR 5126, Jan. 17, 2017]

§ 423.1982 Notice of a revised determination or decision.

(a) *When adjudicators initiate reopenings.* When any determination or decision is reopened and revised as provided in § 423.1980:

(1) The Part D plan sponsor, IRE, ALJ or attorney adjudicator, or the Council must mail its revised determination or decision to the enrollee at his or her last known address.

(2) The IRE, ALJ or attorney adjudicator, or the Council must mail its revised determination or decision to the Part D plan sponsor.

(3) An adverse revised determination or decision must state the rationale and basis for the reopening and revision and any right to appeal.

(b) *Reopenings initiated at the request of an enrollee or a Part D plan sponsor.*

(1) The Part D plan sponsor, IRE, ALJ or attorney adjudicator, or the Council must mail its revised determination or decision to the enrollee at his or her last known address.

(2) The IRE, ALJ or attorney adjudicator or the Council must mail its revised determination or decision to the Part D plan sponsor.

(3) An adverse revised determination or decision must state the rationale and basis for the reopening and revision and any right to appeal.

[74 FR 65363, Dec. 9, 2009, as amended at 82 FR 5126, Jan. 17, 2017]

§ 423.1984 Effect of a revised determination or decision.

(a) *Coverage determinations.* The revision of a coverage determination is binding unless an enrollee submits a request for a redetermination that is accepted and processed in accordance with § 423.580 through § 423.590.

(b) *Redeterminations.* The revision of a redetermination is binding unless an enrollee submits a request for an IRE reconsideration that is accepted and

processed in accordance with § 423.600 through § 423.604.

(c) *Reconsiderations.* The revision of a reconsideration is binding unless an enrollee submits a request for an ALJ hearing that is accepted and processed in accordance with §§ 423.2000 through 423.2063.

(d) *ALJ or attorney adjudicator decisions.* The revision of an ALJ or attorney adjudicator decision is binding unless an enrollee submits a request for a Council review that is accepted and processed as specified in §§ 423.2100 through 423.2130.

(e) *Council review.* The revision of a Council determination or decision is binding unless an enrollee files a civil action in which a Federal District Court accepts jurisdiction and issues a decision.

(f) *Appeal of only the portion of the determination or decision revised by the reopening.* Only the portion of the coverage determination, redetermination, reconsideration, or hearing decision revised by the reopening may be subsequently appealed.

(g) *Effect of a revised determination or decision.* Consistent with § 423.1978(c), a revised determination or decision is binding unless it is appealed or otherwise reopened.

[74 FR 65363, Dec. 9, 2009, as amended at 82 FR 5127, Jan. 17, 2017; 84 FR 19872, May 7, 2019]

§ 423.1986 Good cause for reopening.

(a) *Establishing good cause.* Good cause may be established when—

(1) There is new and material evidence that—

(i) Was not available or known at the time of the determination or decision; and

(ii) May result in a different conclusion; or

(2) The evidence that was considered in making the determination or decision clearly shows on its face that an obvious error was made at the time of the determination or decision.

(b) *Change in substantive law or interpretative policy.* (1) *General rule.* A change of legal interpretation or policy by CMS in a regulation, CMS ruling, or CMS general instruction, whether made in response to judicial precedent