

(3) Subsequently deliver, within three calendar days, equivalent written notice.

(e) *Action following acceptance of a request.* If a Part D plan sponsor grants a request for expedited redetermination, it must conduct the redetermination and give notice in accordance with § 423.590(d).

(f) *Dismissing a request.* The Part D plan sponsor dismisses an expedited redetermination in accordance with § 423.582.

[70 FR 4525, Jan. 28, 2005, as amended at 73 FR 20507, Apr. 15, 2008; 74 FR 1547, Jan. 12, 2009; 74 FR 65363, Dec. 9, 2009; 83 FR 16752, Apr. 16, 2018; 86 FR 6120, Jan. 19, 2021]

§ 423.586 Opportunity to submit evidence.

The Part D plan sponsor must provide the enrollee or the prescribing physician or other prescriber, as appropriate, with a reasonable opportunity to present evidence and allegations of fact or law, related to the issue in dispute, in person as well as in writing. In the case of an expedited redetermination, the opportunity to present evidence is limited by the short timeframe for making a decision. Therefore, the Part D plan sponsor must inform the enrollee or the prescribing physician or other prescriber of the conditions for submitting the evidence.

[74 FR 1548, Jan. 12, 2009]

§ 423.590 Timeframes and responsibility for making redeterminations.

(a) *Standard redetermination—request for covered drug benefits or review of an at-risk determination.* (1) If the Part D plan sponsor makes a redetermination that is completely favorable to the enrollee, the Part D plan sponsor must notify the enrollee in writing of its redetermination (and effectuate it in accordance with § 423.636(a)(1) or (3) as expeditiously as the enrollee's health condition requires, but no later than 7 calendar days from the date it receives the request for a standard redetermination.

(2) If the Part D plan sponsor makes a redetermination that affirms, in whole or in part, its adverse coverage determination or at-risk determination, it must notify the enrollee in writing of its redetermination as expeditiously as the enrollee's health condition requires, but no later than 7 calendar days from the date it receives the request for a standard redetermination.

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(b) *Standard redetermination—request for payment.* (1) If the Part D plan sponsor makes a redetermination that is completely favorable to the enrollee, the Part D plan sponsor must issue its redetermination (and effectuate it in accordance with § 423.636(a)(2)) no later than 14 calendar days from the date it receives the request for redetermination.

(2) If the Part D plan sponsor affirms, in whole or in part, its adverse coverage determination, it must notify the enrollee in writing of its redetermination no later than 14 calendar days from the date it receives the request for redetermination.

(c) *Effect of failure to meet timeframe for standard redeterminations.* If the Part D plan sponsor fails to provide the enrollee with a redetermination within the timeframes specified in paragraphs (a) or (b) of this section, the failure constitutes an adverse redetermination decision, and the Part D plan sponsor must forward the enrollee's request to the IRE within 24 hours of the expiration of the adjudication timeframe.

(d) *Expedited redetermination—(1) Timeframe.* A Part D plan sponsor that approves a request for expedited redetermination must complete its redetermination and give the enrollee (and the prescribing physician or other prescriber involved, as appropriate), notice of its decision as expeditiously as the enrollee's health condition requires but no later than 72 hours after receiving the request.

(2) *Confirmation of oral notice.* If the Part D plan sponsor first notifies an enrollee of an adverse or favorable expedited redetermination orally, it must mail written confirmation to the enrollee within 3 calendar days of the oral notification.

(3) How the Part D plan sponsor must request additional information. If the Part D plan sponsor must receive medical information, the Part D plan sponsor must request the necessary information within 24 hours of the initial request for an expedited redetermination. Regardless of whether the Part D

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plan sponsor requests additional information, the Part D plan sponsor is responsible for meeting the timeframe and notice requirements.

(e) *Failure to meet timeframe for expedited redetermination.* If the Part D plan sponsor fails to provide the enrollee or the prescribing physician or other prescriber, as appropriate, with the results of its expedited redetermination within the timeframe described in paragraph (d) of this section, the failure constitutes an adverse redetermination decision, and the Part D plan sponsor must forward the enrollee's request to the IRE within 24 hours of the expiration of the adjudication timeframe.

(f) *Who must conduct the review of an adverse coverage determination or at-risk determination.* (1) A person or persons who were not involved in making the coverage determination or an at-risk determination under a drug management program in accordance with § 423.153(f) must conduct the redetermination.

(2) When the issue is the denial of coverage based on a lack of medical necessity (or any substantively equivalent term used to describe the concept of medical necessity), the redetermination must be made by a physician with expertise in the field of medicine that is appropriate for the services at issue. The physician making the redetermination need not, in all cases, be of the same specialty or subspecialty as the prescribing physician or other prescriber.

(g) *Form and content of an adverse redetermination notice.* The notice of any adverse determination under paragraphs (a)(2), (b)(2), (d)(1) or (d)(2) 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;

(i) For adverse drug coverage redeterminations, or redeterminations related to a drug management program in accordance with § 423.153(f), 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 appeals process;

(ii) For adverse payment redeterminations, describe the standard reconsideration process and the rest of the appeals process; and

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

(h) *Form and content of a completely favorable redetermination notice.* The notice of any completely favorable determination under paragraphs (a)(1), (d)(1) or (d)(2) of this section must explain the conditions of the approval in a readable and understandable form.

(i) *Automatic forwarding of redeterminations made under a drug management program.* If on redetermination the plan sponsor affirms, in whole or in part, its denial related to an at-risk determination under a drug management program in accordance with § 423.153(f), the Part D plan sponsor must forward the case to the IRE contracted with CMS within 24 hours of the expiration of the applicable adjudication timeframe under paragraph (a)(2), (b)(2), or (d)(1) of this section.

(j) *Requests for review of a dismissal by the independent entity.* If the Part D plan sponsor dismisses a request for a reconsideration in accordance with § 423.582(e) or § 423.584(f), the enrollee or other proper party has the right to request review of the dismissal by the independent entity. A request for review of a dismissal must be filed in writing with the independent entity within 60 calendar days from the date of the Part D plan sponsor's dismissal notice.

[70 FR 4525, Jan. 28, 2005, as amended at 74 FR 1548, Jan. 12, 2009; 75 FR 19823, Apr. 15, 2010; 83 FR 16752, Apr. 16, 2018; 86 FR 6120, Jan. 19, 2021]

§ 423.600 Reconsideration by an independent review entity (IRE).

(a) An enrollee who is dissatisfied with the redetermination of a Part D plan sponsor has a right to a reconsideration by an independent review entity that contracts with CMS. The prescribing physician or other prescriber (acting on behalf of an enrollee), upon providing notice to the enrollee, may request an IRE reconsideration. The enrollee, or the enrollee's prescribing physician or other prescriber (acting on behalf of the enrollee) must file a written request for reconsideration