

## Centers for Medicare & Medicaid Services, HHS

## § 405.2110

has not yet expired, by sending the notice specified in § 405.1887(a) of this subpart.

[73 FR 30265, May 23, 2008, as amended at 78 FR 75195, Dec. 10, 2013; 85 FR 59019, Sept. 18, 2020]

### **§ 405.1887 Notice of reopening; effect of reopening.**

(a) In exercising its reopening authority under § 405.1885, CMS (for Secretary determinations), the contractor or the reviewing entity, as applicable, must provide written notice to all parties to the determination or decision that is the subject of the reopening. Notices of—

(1) Reopening by a CMS reviewing official or the Board must be sent promptly to the Administrator.

(2) Contractor reopenings of determinations that are currently pending before the Board or the Administrator must meet the requirements specified in § 405.1885(c)(3) and (c)(4) of this subpart.

(b) Upon receipt of the notice required under § 405.1887(a) of this subpart, the parties to the prior Secretary or contractor determination or decision by a reviewing entity, as applicable, must be allowed a reasonable period of time in which to present any additional evidence or argument in support of their positions.

(c) Upon concluding its reopening, CMS, the contractor or the reviewing entity, as applicable, must provide written notice promptly to all parties to the determination or decision that is the subject of the reopening, informing the parties as to what matter(s), if any, is revised, with a complete explanation of the basis for any revision.

(d) A reopening by itself does not extend appeal rights. Any matter that is reconsidered during the course of a reopening, but is not revised, is not within the proper scope of an appeal of a revised determination or decision (as described in § 405.1889 of this subpart).

[73 FR 30266, May 23, 2008]

### **§ 405.1889 Effect of a revision; issue-specific nature of appeals of revised determinations and decisions.**

(a) If a revision is made in a Secretary or contractor determination or a decision by a reviewing entity after

the determination or decision is reopened as provided in § 405.1885 of this subpart, the revision must be considered a separate and distinct determination or decision to which the provisions of §§ 405.1811, 405.1834, 405.1835, 405.1837, 405.1875, 405.1877 and 405.1885 of this subpart are applicable.

(b)(1) Only those matters that are specifically revised in a revised determination or decision are within the scope of any appeal of the revised determination or decision.

(2) Any matter that is not specifically revised (including any matter that was reopened but not revised) may not be considered in any appeal of the revised determination or decision.

[73 FR 30266, May 23, 2008]

## **Subparts S–T [Reserved]**

## **Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services**

**AUTHORITY:** Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1320b–8, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), unless otherwise noted.

**SOURCE:** 41 FR 22511, June 3, 1976, unless otherwise noted. Redesignated at 42 FR 52826, Sept. 30, 1977.

### **§§ 405.2100–405.2101 [Reserved]**

### **§ 405.2102 Definitions.**

As used in this subpart, the following definitions apply:

*Network, ESRD.* All Medicare-approved ESRD facilities in a designated geographic area specified by CMS.

*Network organization.* The administrative governing body to the network and liaison to the Federal government.

[41 FR 22511, June 3, 1976. Redesignated at 42 FR 52826, Sept. 30, 1977, as amended at 43 FR 48950, Oct. 19, 1978; 51 FR 30361, Aug. 26, 1986; 53 FR 6547, Mar. 1, 1988; 55 FR 9575, Mar. 14, 1990; 72 FR 15273, Mar. 30, 2007; 73 FR 20473, Apr. 15, 2008; 79 FR 66261, Nov. 6, 2014]

### **§ 405.2110 Designation of ESRD networks.**

CMS designated ESRD networks in which the approved ESRD facilities